VSV

The Difference between Authority and Vsurpation is stated.

That the obedience due to lawfull Magistrates, is not owing, or payable, to USURPED POWERS is maintained.

The Obligation of OATHS, and other *Sanctions* to the former, notwithstanding the Antipolitie of the latter is asserted.

And the Arguments urged on the contrary part in divers late Printed Discourses are answered.

Being modestly, and inoffensively managed.

By one studious of Truth and Peace both in *Church* and *State*.

Tyrannus sine titulo ille est qui imperium ad se, absque legitima ratione rapit, huic quisque privatus resistat, & si possit e medio tollat. Vide sacram Theolog. per Dudleium Fennerium. cap. 13 depulit. civili. pag. 80.

Si Invasor imperium arripuerit, neque pactio ulla sequuta sit, aut fides illi data, sed sola vi retineatur possessio, a quodlibet privato jure potest interfici Grotius de jure pacis ac belli. p. 86.

Luke 21. 8.

But when ye shall hear of warres, and commotions (or seditions) be not terrified.

Printed in the Yeare. 1650.

pters.

O[illegible] it is. A Case propounded, wherein it is not hard to determine whether Vsurpation be chargeable or not.

CHAP. II.

Of yeelding Obedince to a Power usurped as above said. That it is not lawfull to give up ones self to the Allegiance of such a Power.

CHAP. III.

This Question discussed. Whether submission to, and acting under a usurped Power, for the time, be lawfull, with a reservation of allegiance to the lawfull Power, supposed to be expulsed.

CHAP. IV.

The obligatorinesse of the Oaths and Covenant, urged in the second Chapter against Obedience to Vsurpers, made good against divers late Authors.

CHAP. V.

The Reasons brought for obedience to Vsurpers, and acting under them, Answered.

To the Reader.

Christian Reader,

IF thou kneweſt the Gentleman the *Authour of this Tract, thou wouldeſt reade it* for his ſake. *And if thou once reade it through without prejudice, thou wilt reſpect it* for its own ſake.

His eminent fidelity to the Parliament, according to their firſt declared principles, is evidenced, as heretofore by ſeverall appearings and ſufferings in their behalf, ſo now by this Tract. It is weighty *for the* matter, *and* wiſely *handled for the* manner *and* method *of it. A* ſtrain *of* Religion, *and* ſtrength *of* Reaſon *running all along through it. His weapons are* ſpirituall, *the Word of God and right reaſon, not* carnall *policy or power, weapons now moſt in uſe.*

He judgeth of actions (*as wiſe men doe*) *by* themſelves, *not by their* ſucceſſes: *he accounts not proſperous* vice *a* vertue, *nor prevalent reſiſtance of lawfull Magiſtracy leſſe ſinfull, then if it had not been prevalent, nor the* Mahumetan *party to be any whit the more* bleſſed *or* beloved *of God, becauſe by* force *or* fraud (*through Gods permiſſion*) *they at firſt* raiſed, *and have for ſundry centuries of years* continued *to themſelves a large Empire by the ruine of many millions of Chriſtian Souls: knowing that* the proſperity of fools (*that is of Hypocrites and wicked men*) ſhall at laſt deſtroy them. Prov 1. 32.

By that wiſdome which is from above, which is firſt pure then peaceable, *he rightly ſeeks after* Peace, *by clearing up* Truth, *promoting* righteouſneſſe: *proportioning to each their own due, and* placing *them in their own rank and ſtation, Truth, order, righteouſneſſe are foundations and pillars, if not* parts *of true Peace; without theſe either there is* no peace (*as if the ſervants of this City being more & ſtronger, then their Maſters ſhould ſlay or baniſh them, & quietly divide amongſt themſelves their Lands and Goods, were this a Peace?*) *or if it may be called a* peace, *it is but a* baſe bru-

tish, satanicall peace, *a* plague *and* pest *of*
such a kind of peace, *as well as by* power *a*
chus prosper, practise, and destroy the mighty
Dan. 8. 24. 25.

This Authours zeal for the obligation *of solemn* Oaths, Vows, *and* Covenants *may well be born with; if it be a fault, there is but little* (*too little*) *of it in* England. *But the goodman* though he sweareth to his own hurt, changeth not. *Psa.* 15. 4.

I will say no more, but Tolle lege, take up and reade, understand *what thou readest*, remember *and* practise *what thou understandest* to be the will and mind of God, *and* pray *for such* (*whether of the Gentry, Ministery or others*) *as* long *and* labour *for thy* information *and* reformation *if thou* wandrest; *and for thy* confirmation *and* consolation *if thou* walkest *aright. The God of truth and peace be with thee* Amen.

CHAP. I

Of Vſurpation, what it is; a Caſe propounded, wherein it is not hard to determine whether Vſurpation be chargeable, or not.

USurpation is an intruſion into the Seat of authority, a preſuming to poſſeſſe, and manage the place and power thereof without a lawfull calling, right, or title thereunto. A lawfull call or title to that rule, and Government which is ſupreme (of which I have to ſpeak) is derived, or comes from God, *There is no power but of God*, (ſaith the Apoſtle) *the powers that be are ordained of God*: Rom. 13. 1. It were a ſenſe too large, and not to be defended to take theſe words abſolutely, and unlimitedly of all power, in regard either of title, or meaſure, and uſe. An unjuſt power in regard of Meaſure, or the ſtretching of Power beyond its due bounds, or the abuſe of it is generally denyed to be of God by way of warrant; and an unjuſt power in regard of title, or an authority ſet up, and admitted againſt, or without right, God himſelfe denyes to be of him. *They have ſet up kings, but not by me; they have made Princes, and I knew it not*: ſaith he, *Hoſea* 8. 4. Which ſpeech is by the current of [a] Expoſitors applyed to *Jeroboam*, and his ſucceſſors, coming in to be kings of Iſrael in that manner as they did; For although *Jeroboam* had a prediction (yea, ſuppoſe it a grant) that he ſhould be King of ten Tribes, 1 *King*. 11. 29. yet the people, at *Salomons* death, had no command, or direction from God to caſt off *Rehoboams* government, and make him their King; it was therefore ſedition and rebellion in them; and both a manifeſt breach of the fifth Commandement; and of the poſitive Law of God, *Deut*. 17. 14. 15. and *Jeroboam* was faulty in that, though he had Gods preconceſſion of a Kingdome over ten Tribes; yet having had no order from him about the time, manner, or the particular ten which they ſhould be; he did not ſeek & tarry for a further direction, and calling from God; as *David* did in the like caſe [b]. And although the Lord, when it was done teſti-

[a] *Zanchius, Junius, Geneva interpret. Pareus, Diodate*: Annotations of Divines in locum. Vide Paræum in Hoſ. 8. 4.

[b] 2 Sam. 2. 1.

[c] 1 King. 12. 24 fied that the thing was from him[c]; yet we ... to have been so by his permissive counsell, and gener... or providence onely, as all actions as they are actions, ... events that are evils of punishments and as they are such, are, though the actors among men that bring them be never so sinfull in them; but not by his approbation, appointment, or constitution; the event was from God, but not the sinfull means by which it was accomplished. he ordered the evill carriage of men to that effect, but he gave them no order for that evill carriage: so that though, in a sense, it was of him, yet in regard of authorizing, it was without and against him, and, in the Apostles sense, none of Gods ordinance. But of this we shall have occasion to speak again hereafter.

God giveth a calling, or invests with a right to Soveraignty, either immediately, by making and declaring the choice, and designing the person himselfe, or mediately, by committing it to the people to elect, and constitute both their form of Government, and the persons that are to sway it over them, which he hath done to all Nations, yet with a reservation to himselfe of power to interpose with his owne immediate designation when he pleaseth: and when he doth not so, the vote of the people is the voice of God, (ordinarily) and they passing their consent when a Magistrate is to be set over them, that power, so constituted, is of God, as his ordinance. And this may be the reason why that, which in one place is called the ordinance of God, is, in another called the ordinance of man, or an humane creature: 1 *Pet.* 2. 13. By the former way the Judges and Kings of Israel had, or ought to have had their admission to rule, [d] and that was extraordinary, and peculiar to that people, the latter is the onely ordinary, lawfull, and warrantable way of creating a right, and title to the helme of Magistracy in other Nations. And as in the former the call of God was sometimes personall, or of one single person, as was that of *Moses*, *Joshua*, *Samuel*, *Saul*, and others: and again sometimes lineall, or of a whole race: as was that of *David* and his seed[e]: So it is in the latter, [f] the peoples constitution of their Governors may either be individuall, or intransient, as in those kingdomes, or States which are called (in a strict acception) Elective, or it may be continuated, and successive, as in those Kingdomes, or Principalities which are called

[d] Deut. 17. 14.
[e] 2 Sam. 7. 12.
[f] *Principatum multi appetunt, nec boni ipsi nec bono fine, quos repressit tamen mos sive lex Gentium vepagulo duplici, Electionis & successionis, &c.* Justi Lipsi polit. l. 2. c. 4.

hereditary, and possessed by descent: both wayes Princes by the peoples Election, and consent; and the latter is preferred by many wise Statists before the former *g*.

g *Minore discrimine sumi principem quam quæri.* Tacit. Hist. l. 2.

I shall not insist on the distinctions that might be observed touching the manner of the peoples passing their consent; nor determine which of them is sufficient, and which not, to make this right to title, whether it must be antecedent to possession, or may be consequent, expresse, or tacite: collective, or representative: absolute, or conditionated: free, or enforced: revocable, or irrevocable. The consideration of these is not materiall to the resolution of what is in question: it sufficeth that it be yielded, that the peoples consent is (besides that which is by commission immediately sent and signed from heaven) the onely derivation of a lawfull call, or claim to Government *h*. When our Saviour Christ (who being such an extraordinary person, might have warrant to do what would have been presumption in any other) was appealed to in a cause that appertained to the civill Magistrates decision: he refused to deal in it, with these words, *Who made me a Judge, or a divider over you?* according to which words of him, who is *the truth*, he that may rule, must be placed in that office by some body, and may not undertake it of himselfe: no man may take this honour to himself, or be his own advancer to the Throne: but he must be installed by another: and what other creature, besides the Nation it self, can challenge a power to appoint over it its Rulers is not to me imaginable. Angels are not of his Oeconomie, do not intermeddle in this businesse: and for other people, or forrein States they are but in an equalitie, and have no partnership in this matter: they have no more to do impose Governors over their neighbours, then they have reciprocally over them: and to whichsoever may attempt it towards the other, by the analogy of our Saviours words, it may be said, *Who made thee a Judge, or Rule-maker over me?*

h *Quantum in vero legali Monarchiæ genus est quæ jam temporibus Heroicis voluntate civium, & patriis legibus atque institutis approbata est.* Arist. polit. li. 3. num. 89. Luk. 12. 13, 14

Luk 12. 13. 14.

A calling from the people, who are to be subject being so necessary, and essentiall to a humanely constituted Magistracie: it is easie to discern what is Usurpation, *viz.*: that which is opposite to it, or privative thereof, which is a snatching hold of the Scepter, and wresting it out of the hands of those who are to dispose of it, or have it committed to them: it is ordinarily

termed, a tyranny in regard of title, or without
ſtinction betwixt lawfull Magiſtrates and Tyrants is thu
by *Ariſtotle*: h *Kings do reign, not onely according to the L.*
but over them that conſent to them: Tyrants rule over men againſt
their wils. If any govern againſt the minde of the governed, it ceaſeth to be a Kingdom, and becometh a Tyrany which ruleth by force. All lawfull power then is founded upon the wils of thoſe over whom it is ſet; Contrariwiſe Uſurpation is built upon the will and power of them that hold the Government; it is a ſelf-created, or ſelf authoriſed Power, ſuch was that of *i Cinna*, and *Carbo* who made themſelves Conſuls, without any Court-election, in the time of the Roman ſociall war betwixt *Sylla* and *Marius*: and that of k *Julius Cæſar*, who made himſelf Conſul, together with *Publius Servilius*, Such was that of the Caldeans over the Jews, *Hab:* 1. 7. *Their judgement and their dignity ſhall proceed of themſelves*, ſaith the Prophet, that is, as *Deodate* expounds it, they received no Law, nor aſſiſtance from any, their rights conſiſt in their will, and the execution in their power.

Uſurpation being defined, we may proceed to diſtinguiſh of it according to ſeverall heights, or degrees it is capable of: at 1. It is either where the Throne is vacant, and undiſpoſed of (which may happen ſundry wayes, as when a Commonwealth is new erected, or the poſſeſſors of the Government reſigne, or are extinct and none left to lay claim to it) or, where it is full, and poſſeſſed *de jure*, and the Rulers are onely violently extruded, and kept out.

2. Uſurpation is either meerly in point of Title, and adminiration of a received and ſettled Government, or by way of innovating in the Government it ſelf, over-turning the conſtitution of it, and forming it anew.

3. It may come to be acted either from thoſe without, *viz.* Forreiners, and ſtrangers to the State, or by Natives, and naturall Subjects of the Kingdome.

4. It is done by theſe, either againſt the ſingle tye and duty of obedience and allegiance owed to the preſent lawfull authority; or againſt allegiance bound with Oaths and ſacred Covenants. All the ſorts of each of theſe diſtinctions are direct, and formall uſurpations, but the latter of each far ſurpaſſeth the other reſpectively, and a conſpiration of them all makes an Uſurpation

of

h *Reges enim non ſolum ſecundum legem, ſed etiam volentibus, Tyranni autem invitis imperant.* Ariſtot polit. l. 3. cap. 87. *Etenim ſi nolentibus imperatur, regnum protinus eſſe deſinit. Tyrannus efficitur quæ vi dominatur. Verum regnum eſt imperium voluntate civium delatum: at ſi quis vel fraude, vel violentia dominatur manifeſta Tyrannis eſt.* idem. li. 5 num. 112.

i *Deinde Cinna, & Carbo ſeſe, ſine comitiis conſules creabant in biennium.* Chro. Carion. lib. 2.

k *Ex Dictatore Conſulem ſe tum P. Servilio ipſe fecit.* Cluver. Hiſt. li 7. pa. 235.

...itude: when a party owing obedience and subje-
...a long continued, and undoubted lawfull power, and so-
lemnly sworn to submit to, and support that Government, shall
rise up, and presume to thrust out the possessors, and invest it self,
yea, and not onely seize on the Power, but of its own minde,
and will, or, by its force alone, abolish the settled, and set up a
new mould of government, this is Usurpation to the culmen or
height of it.

Having thus found out what Usurpation, and what the Ze-
nith of it is, we may put a case wherein it will be easie to give
a Judgement cleerly. Suppose a Nation in *America*, whose fun-
damentall government is, and hath been anciently and con-
fessedly constituted, and placed in a King, a House of Peers,
and an House of Commons sitting in a collaterall, or coordi-
nate rank, in regard of supremacy of power, the King being the
supreme in order (unto whom, is such an association, Oaths of
allegiance and supremacy are generally sworn) next to him the
Peers as the Upper, and the Commons as the Lower House of
Parliament. Suppose also, the King, according to his place,
summoning them, and they conformably assembling together
in Parliament, and he and they personall concurring to act
in the highest affairs of government, in the processe whereof
differences arise betwixt the King, and the said two Houses:
which grow to that height, as that he in person departs from
them, a war breaks out betwixt them: the Kingdom is divided
by partieship with them, on the one side or the other, the two
Houses continue acting joyntly, not onely in managing their
military defence, but in the other publick, both religious and
civil affaires of the Kingdom; they petition, remonstrate, and
declare for a necessity of an association, and conjunction of the
King and the two Houses as the fundamentall constitution, and
government of the Kingdom: they enter into, and prescribe to
the people Protestations, Vows, Oaths, and Covenants, for
the upholding of the authority and power of both so constitu-
ted, they professedly fight for that associated power, they pro-
claim them Enemies and Traitors, they prosecute them with
fire and sword, sequestration of estates: and other punishments,
that go about to divide them asunder, or oppose the aforesaid
authority, and all this they do: and a vow as the indispensably
necessa-

necessary discharge of their trust. Suppose after all
Army raised and imployed by the said two Houses in the a
said war, confederating in their Leaders (as by the immediate
sequell manifestly appears) with a small party in the Lower
House; Remonstrates to that House (without any addresse to
the other) many high and strange things they would have
done by them, and amongst the rest, that the King be proceed-
ed against, as for treason, and other capitall crimes; in like
manner his two eldest Sons, if they render not themselves with-
in a day to be set them: that it be declared that the peoples Re-
presentatives in the House of Commons shall have the supreame
Power, and all other shall be subjects to them; in which de-
mands, that House not being so obsequious to them as they ex-
pect, but standing upon the colleagueship of that Government,
which they with their associates, the King, and the House of
Peers are intrusted with the army, forthwith, marched up to
the doors, and by force of arms seized on, and shuts up in
hold one sort of them; and by a strong guard set at their doores
shuts out another, suffering onely a small number of them, and
such as please them to sit in the House. Suppose lastly, this little
number, left in the House, shall approve of, and second these
proceedings of this army: and by their act, or Vote confirm the
seclusion of that greater number of the Members of that House;
and taking up them to act in the name of that House, shall
Enact or declare themselves to be the onely Supreame autho-
rity in the Nation, and by that pretended solitarinesse, and su-
premacy of power shall take away, and abolish the other House
of Parliament, destroy the life of the King, deny, and disanull
the Title of his Heirs, and Successors, to the Crown and King-
dome: abolish the office of a King, and adorn and govern soli-
tarily over the people, as their onely supreame Power, and re-
quire their obedience, and subjection as to such. The *quære*, in
this case thus propounded is, whether this said party, as thus
acting, and as to this latitude of authority, be usurpers, yea, or
no? whether this their removing others from the Seat of Su-
preame Power, and assuming it peculiarly to themselves, be, or
be not Usurpation (as Usurpation hath been before prescribed)
and that to the very apex, or highest pinacle of it; yea, whe-
ther they be, or be not guilty of a double Usurpation?

First,

usurping the name and authority of that House. It may be said for this. 1. That possibly they may make a *quorum*, or as many in number as are required to act. *R.* But are they not supposed to be under actuall and present force, which hath been, without contradiction by any, adjudged a ground of nullity to Parliamentary proceedings. For though all are not required to be present, yet the House must be free for all to come to, that their acts may be free and authorative.

2ly. That perhaps they may be most willing, voluntary, and free in their acts, and the force, that hath taken away others, may be no force but a security to them, being of the same principles, apprehensions, and designes with them. *R.* But though they as men may be free, yet taking upon them the name of the House are they free as an House? the House includeth virtually every Member of it, many whereof being violently excluded by those that guard the meeting place, how free soever those persons are that sit, how can the House be said to be free? nay, doth not their voluntarinesse and free complyance make the Usurpation compleater? Could they be said to be enforc'd to declare, and act such things, we might by a favourable interpretation onely judge their Acts to be null, but when their proceedings flow from their own wils, and they so concur to the exclusion of others more then themselves from the exercise of the power they with them are intrusted with, and assume to themselves a power, never confirmed on them by the people, but meerly of their owne creation, how can this be lesse then Usurpation to the life?

2ly, In usurping (in the name of that House) the sole supremacy of Power in the Nation. It will be pleaded: perhaps, that the House of Commons, in the supposed case, is the onely Representative of the people, to whom alone the Nation hath committed the Supreme Power. *R*: 1. That House is not a Representative of the whole Nation, but onely of the Commons, which though the bulk, and far more numerous part; yet cannot stand for the whole in choosing a Representative, but onely for themselves. 2. If it could be made good, that to that House, the whole Nation, in the originall constitution of Government, had committed the sole Power; the *quære* would easily be cast in the negative; but how will that be proved? The

case,

caſe, as it is put, preſuppoſeth antiquitie, and by paſt p... and the actings of the preſent Houſe of Commons, un... brought under force, to proclaime the quite contrary. 3. If nothing, *ab origine*, can be ſhewed for that, did the King that ſummoned this Parliament, or the People that choſe this Houſe of Commons, ſuppoſed in the Caſe, paſſe over any ſuch prerogative to them *de novo*; If either of them did, let us heare how. 4. It is too groſſe an abſurdity to be charged upon the ſuppoſed preſent, and all former Repreſentatives, that being intruſted by the people with the ſole Supremacy, they have of themſelves aſſociated to them the King, and the Houſe of Peers, it being beyond the power of the conſtituted, and onely in the Conſtitutors to make ſuch an alteration in the fundamentall Conſtitution; as Repreſentatives cannot make Repreſentatives or Proxies, ſo can they not take in Aſſociates, or advance others, not impowered by them that impowered them into a Colleagueſhip with them. I leave it therefore to every Reader to determine the Caſe, and paſſe judgement. Whether the ſole ſupreme Power, in the preſuppoſed party, be derived to them legitimately, or be not a Self-created-power, and ſo a meer Uſurpation, and that of the fulleſt dimenſion, being againſt a lawfully ſetled Government, in prejudice both of the juſt Magiſtrates and the people: and in contradiction to both the ſingle tye of Subjects Allegiance to Soveraignty, and the ſacred ſanction of Vows, Oaths, and Religious Covenants.

CHAP. II.

Of yeelding obedience to a Power uſurped as aboveſaid. That it is not lawfull to give up owes ſelf to the Allegiance of ſuch a Power.

CONcerning obedience to an uſurped authority, I meet with two opinions, which I ſhall ſeverally examine. 1. Is of thoſe who hold obedience as due, and neceſſary; and that in as full a manner to ſuch, as it is to the lawfulleſt Power. This is held and argued for in a Tract, entituled, *The lawfulneſſe of obeying the preſent Government*: as alſo in *A diſcourſe, wherein is examined, what is particularly lawful, &c. by Ant: Aſhcam Gent: See in his 2d. Part. cap. 9.* Although indeed they both propound their opinion

opinion in the Title of their Discourse for obedience as lawfull; yet, in the prosecution, they plead for it in that fulnesse of latitude as due, and necessary. This their Tenent they strive to maintain in relation to the present State of *England*. I shall deal with it in reference to the case above proposed, and in *thesi*. 2. Is of those who, reserving their obedience as due and devoted to the lawfull Power, supposed to be still existent; doe yet conceive they may submit and act under a usurped Power for the time, and during the intervall of its prevalency.

I begin with the former; wherein it is asserted by one of the aforesaid Authors, [a] (and the other comes not short of him in the sense and current of his Discourse) *That upon the issue of a warre, and the expulsion of a just party, a man may lawfully give up himself to the finall Allegiance of the unjust party*. Against this Position must my Judgement stand, which dictates to me that I owe no obedience to an Usurper; and to yeeld up my self in obedience or Allegiance unto Usurpers, who have no other title but their usurpation, is unjustifiable, and unlawfull, and that upon these grounds.

[a] A discourse wherein is examined, &c. by *Ant: Alsecam* Gen: Part. 2. Chap. 9 pa. 84.

1. I cannot (if I would) yeeld up my self in obedience to him that hath no authority over me take him as a Usurper, and my Allegiance is incompetible to him; obedience and authority; Magistrate, and Subject, are tearms of relation, and doe *Se mutuo ponere & tollere*: they are inseparable from one another; if there be no Magistracy in him, there can be no obedience properly, and formally in me to him. I may (either warrantably or unwarrantably) doe an act possibly which he commandeth, but that cannot be truly and properly said to be an act of obedience to him: his authority is null, of no reality. *He is no Magistrate, but a private person*, my fellow Subject, if one of the Nation) or a forreiner to me; his commanding over me and others is, as if a private Souldier should take upon him to give orders to his Company, or an inferior Officer to an army; or a servant should offer to rule over his fellow-servants.

[b] *Tyrannus absq; titulo, qui est invasor, quilibet privatus potest, debet è medio tollere: neque enim ille Rex est, sed privata persona, &c.* Alsted. Theol. Cas. ca. 17. Regul. 8.

In saying he is a usurper, you say enough for the nullifying of his authority, and my obedience; whatever strength he may have to compell, he hath no authority to command me: *He is a Magistrate that hath the Subjects committed to his charge and care*, say the Leyden Divines [c] in their Synopsis, and principality,

[c] *Magistratus subditos fidei, ac curæ suæ commissos tanquam Dei minister gubernat.* Synops. pur. Theol. disput. 50. thes. 3.

Lypsius [d] defines to be, *A government delivered by Custome, or Law, and constitution to him that sustains it; and undertaken, and managed by him for the good of the Subjects.* Another defines a Magistrate to be [e] *A publick person, elected by succession, lot, or suffrage; which hath the right and power of Consultation, Judgement, and Command.*

2. I may not (if I could) yeild up my self as a Subject to the Usurper; in so doing, I should take away the right of the lawfull Magistrate which he hath over me, and injure him in the allegiance which I stand tyed in to him, and he still retaineth the claim of at my hands. The Magistrate is (in the case in hand) granted to be in being; he is but deprived of possession and enjoyment, not of property or title; he is yet standing in the relation of a Magistrate to me; and is only outed of his station perforce. The obedience of a Subject is not so arbitrary, or loose a thing, as that I may place and remove it at pleasure or as affairs go; but it is a debt which I must render to him unto whom it is due. Neither is Soveraignty so common, ambulatory, or prostitute a matter, as that its title ceaseth unto him that is violently extruded, or dispossessed of it, and becommeth any ones that by force captivates it to himself; the expulsed Magistrate still standing upon his claim and right, and the power in possession having no title but his injurious and forcible entrance; the Subject is not disobliged from him that is expelled, nor at his choice to transfer his obedience to another, neither can the violent intruder challenge it. But in respect of the consequence of that which I here assert as unto resolution in this case, and for that I find the Gentleman, in the afore-named Discourse [f] positively delivering the direct contrary to it, and that which is (as I think) very strange doctrine both in Christianity and politiques, *viz: That we are bound to own Princes so long as it pleaseth God to give them power to command us, and when we see others possest of their Powers, we may then say, that the King of kings hath changed our Vice-roys.* And further, that *the point of right is a thing always doubtful,--possession generally is the strongest title that Princes have. And if possession was really the truest evidence to us of their* (to wit, the expelled Princes) *rights, then it is equitable to follow it still, though it be perhaps in a person of more injustice then they were.* And the other book, I before cited, (*viz: The lawfulnesse of obeying the present Government*) maintains the same thing (both whose

[d] *Principatus est imperium moribus aut regibus delatum susceptum, gestumq; parentium bono.* Just. Lyps. po. lit. li. 2. c. 3.

[e] *Magistratus est publica persona successione, sorte, aut suffragio electa,* &c. Jo: Casi: Sphæra. Cin. l. 4 cap. 15.

Rom. 13. 7.

[f] Discourse of *Ant: Ashcam* part. 2. ca. 9. page 88.

Part. 1. Chap. 5 page 22. 23.

Part. 2. cap. 9. page 90.

whose arguments, for what they say, I shall take notice of, when I have layed down mine own sense and Reasons) I shall therefore here labour to make good these two things: 1. That meer forcible extrusion deprives not any lawfull Magistrate of his right and title to supreame Power. 2. That violent possession gives no right to the Seat of authority, and consequently the Subjects allegiance is not turned about by the changes of powerfull possession, and dispossession.

1. Forcible extrusion or dispossession divests not of Dominion, that the state of the Subjects allegiance should be altred by it.

First, If the vindication or recovery of a Princes, or peoples right of Dominion, out of which he, or they are ejected, or excluded be a justifiable ground for his, their, and others in their behalf leavying and waging war, and prosecuting with the sword those that withstand the said recovery; then the right of him that is expulsed by force is not cancelled, or disanulled. The reason of this consequence is of it self evident, for nothing can be the gronnd of a war, but a just and reall title, either to be defended, or recovered: but I assume, the recovery or redemption of a Princes or peoples right to a Kingdom with-held, or wrested from him or them, is a just ground of drawing the Sword, and commencing a war. This is proved (if it needeth any proof) by the war of the Judges and people of Israel, against the Kings and Nations that at severall times invaded and ruled over them, against whom they rose up, and rescued themselves, and the Dominion of their Land from them: the story of which acts, we have in the *book of Judges*, and by the warres of *Samuel* and *Saul* against the *Philistines*, recorded in the 1 *Book of Samuel*: as also by *Davids* war-like undertaking against, and suppression of *Absolom*, who had carried away all *Israel* after him into a Rebellion against *David*, and expulsed him out of the Land, 2 *Sam.* 15. &c. and 19. 9. In like manner by *Jehoiada's*, and the peoples rising in arms against *Athalia*, the usurping Queen, in the right of *Joash*, and their suppressing, and destroying her, and enthroning him by force of arms. 2 *King.* 11. And by the wars of the *Maccabees against Antiochus Epiphanes, and his successors*, g and the many undoubtedly lawfull wars of other Princes and States in such causes as these, which to insist on is superfluous in so clear a matter.

1 Macca. chap. 1. &c.

g Joseph de Bell: Judaic. lib. 1. cap. 1. Cron. Carion. lib. 2.

Secondly, If right and title to Soveraignty be not built upon poſſeſſion, but upon the Law of the Land, or other conſent of the people, then it is not loſt by diſpoſſeſſion; this conſequence is founded upon that which a learned Statiſt[b] ſaith, *Is a received maxime almoſt unſhaken, and infallible, Nihil magis naturæ conſentaneum eſt, quam ut iiſdem modis res diſſolvantur quibus conſtituantur: There is nothing more agreeable to nature, then that things ſhould be diſolved by the ſame means they are conſtituted.* From which he infers, very pertinently to our caſe in hand, *That if the part of the people, or Eſtate be ſomewhat in the election you cannot make them nulloes or ciphers in the prorivation or tranſlation.* But the right and title of Soveraignty is not built upon poſſeſſion, (which the proof of the latter Poſition will clear) but upon the peoples conſent, which hath gone for ſo currant an axiome, eſpecially of late, that it will certainly paſſe without contradiction.

[b] Conſiderations touching a war with Spain, written by *Francis* Lo. *Verulam.* &c. pa. 3d.

Thirdly, If a private property be not loſt by looſe of poſſeſſion, neither (or rather much leſſe) can ſuch a publick property be loſt by that means; there can be no ſuch difference made betwixt them as to enervate this conſequence, and however, who ſees not the incongruitie of this, that that which is the conſervatory and protection of a private mans property, ſhould be of a ſo much more ſlippery tenure then it; but a private property is not loſt by diſpoſſeſſion: if it were, for what uſe ſerveth the Law, or Magiſtracy? one main end of which hath been, to vindicate the Subjects right from uſurpation, or what call you property? But he that either hath any, or granteth ſuch a thing to be as property, will let this aſſumption paſſe.

Fourthly, If violent extruſion take away a Soveraigns right, then rebellion whoſe it proſpers and prevails is no treaſon, for there can be no treaſon, or other crime imputed as againſt the Crown, dignity, or authority of them, whoſe right therein is extinct and null, ſo that they are onely (according to this opinion) traitors or rebels, that riſe up in Arms, and rebellion againſt the lawful Power, and do not ſucceed and ſpeed according to their deſires. By this account, treaſon and rebellion ſhall conſiſt, not in the maliciouſneſſe of the intent or attempt, but in the misfortune of ſucceſſe, or impotency of the proſecution of it.

Fifthly, If force diſſolve Magiſtracy, then that prohibition of

reſiſtance

resistance under pain of damnation: *Rom.* 13.2. is in vain, in that it concerns onely them that cannot resist effectually, and is no more then if he had said, resist not ye that want power to do it, lest if ye do ye incur damnation: for they that have power, and please to use it to the deposing of the Magistrate, being that in so doing they put an end to his right, how can guilt remain on them?

2. Violent intrusion into, and possession of the Seat of Authority gives no right to it, and consequently neither draws allegiance after it, nor evacuates it in relation to another.

First, an unjust action cannot produce, or create a right. [i] Morall good, and evill are at such distance, that the one cannot be the cause, the other the effect, but violent intrusion into Authority is an unjust action: *Luk.* 12.14. *Man who made me judge*, &c. and that whether it be by one that should be a Subject to that power, *Rom.* 13.2. *Whosoever therefore resisteth*, &c v. 5. *Wherefore ye must needs be subject*, &c. *Tit.* 3.1. 1 *Pet.* 2.13. or by a Forreiner, *Judg.* 11.12,27. 2 *Chron.* 20.10.

Secondly, If violent occupation made a right, [k] then it were lawfull for any, that could make a sufficient strength for it, to rise up in Arms, invade, and seise on any Kingdome or Territory, he can prevail over, yea to kill and destroy men and Countreys for Empire ad Dominion, as [l] *Cæsar* inclined to hold: for that which is of it self the way and means to place a man in a lawfull estate, or calling, and makes him a lawfull possessour of it, must needs be lawfull: but it cannot be held lawfull for any, that can finde power, and advantage, to invade Crowns and Countreys, as is evident by the proof of the Assumption of the preceding Argument.

Thirdly, If possession by power give a title, then its unlawfull for an oppressed Prince, or people to raise warre, or use any other means to expell an Invader, or remove such as have come in, and hold meerly by force: for its unlawfull to resist, or fight against a just Magistrate, *Rom.* 13.1, 2. But it is lawfull for an oppressed Prince or people, by Arms or otherwise to free themselves from a forcible Usurper, as manifestly appeareth by those presidents given in the proof of the assumption of the first argument for the former Proposition, to wit, the wars of Israel in-

i *Non est æquum ut ex actu injusto, jus sibi quis acquirat.* D. Sand de juramenti oblig. prælect. 6 Sect. 4.

k *Opubes dominura Deos, quodcunque vi-detis pugnando dabitur: placet victoria mundum.* Cl. Claudiani Giganto machia.

l *Cicero scribens de officis, tertio libro. semper Cæsarem in ore habuisse Euripidis versus, quos sic ipse convertit: nam si violandum est jus regnandi gratia violandum est aliis rebus pietatem colas.* Sueton in Iul. Cæs.

in the book of Judges, and 1. of *Samuel*, of *David*, *Jehoiadah*, and the Maccabees, and by the known Law and practise of all Nations, and consent of all Divines, and Christians, who with one vote allow defensive and recuperative arms, excepting the *Anabaptists*, and some ancient Hereticks of their stamp.

4ly, *All* force ought to presuppose a right in that about which it is conversant, whether for the defence or recovery of it, *wars* (saith *Francis* Lord *Verulam*, [m] &c.) (I speak not of ambitious predatorie wars) *are suits of appeal to the tribunal of Gods justice, when there are no superiors on earth to determine the cause, and they are as civill Pleas, either Plaints or Defences:* Force therefore cannot create a right, seeing it is to follow it, and both give it the precedencie in time, and own it as its ground-work: adde to this, that the sword is committed to the Magistrate (*and to him alone*, saith *Peter Martyr* [n]) as its subject or owner, so that the Magistrate is before it, not made by it; The Sword makes not the Magistrate, (that is, *it is not its principle of Generation*,) but the Magistrate awarrants, authorizeth the sword, the sword may make for his conservation, but not for his Creation.

[m] Considerations touching a warre with Spaine. pa. 2d.

[n] *Gladius (ut ad Romanos habetur) potestatibus duntaxat est datus.* Loc. commun. classi. 4. ca. 20. loc. 12.

5ly, If force give a title (*renitente populo*) then that late so much decantated aphorisme, all Power (to wit, authority) is from the People, must be called in again, yea all Donations, Elections, Compacts and Covenants betwixt Prince and people are void, and null businesses. *A* third person that can get hold on Power, and lists to usurp, may dissolve and evacuate them all, yea the Prince that comes in by them, when once he hath possession of the Power, holds by his power, and not by them, and can no longer, nor further look to retain his right to authority then he can enforce it, and what Turkish and tyrannicall practises doth this doctrine put him upon of necessitie, if he will sit fast.

6ly, *No man naturally is more a Magistrate then another*: Magistracy being in truth not a naturall, but a civill relation, as is that of husband and wife, master and servant: it must therefore be founded on some mutuall and reciprocall act, or agreement of both parties, to wit, Rulers and Subjects, and cannot result out of the action of one alone of them, nor can either partie be meerly passive, in contracting such a relation. *A* mutuall civill obligation cannot arise but of the joynt or interchangeable

Mr. *Asheam* part 1 ca. 2. Sect. 4.

able concurrence of both.

7ly, Power and right, as alſo poſſeſſion and right are ſeparable, as all experience demonſtrates; ſo it was in the controverſie betwixt *David* and *Abſolom*, and ſo it frequently happens to be: ſucceſſe and victory doth not ſeldome follow the wrong patty; and he would be thought irrationall amongſt all men, whereſoever in the world, but where reaſon it ſelf is brought under tyrannie, that ſhould ſay, ſucceſſe is the only Arbitrator of Controverſies of right, and is ever infallible.

8ly, Strength and authority alſo are two diſtinct and ſeparable things, and rarely meet in the ſame ſubject, but where either brutiſhneſſe, or all miſeries prevail; man hath dominion given him over the beaſts, many whereof are (and were by creation) ſtronger then he. What is a Generals natural ſtrength to that of the army over which he commands? what is a Kings, or a Counſels perſonall ſtrength to that of the body of the people over which it ſways? yea what is the head in the naturall body to all the members under its government, in point of force? We ſee a ſmall board or two, put in the place of a rudder, guides the whole veſſell. Amongſt ſome beaſts indeed the ſtrongeſt rules, but amongſt men it is not regularly ſo: yea, among ſome unreaſonable animals, not force, but fitneſſe deſigned by Election obtains the rule. Bees, they ſay, chooſe their king, of whom [o] *Plinie* obſerves, that *either he hath no ſting, or Nature hath denyed him the uſe of it, being only armed with majeſtie.* And *Ariſtotle* ſaith, [p] *It is by a kinde of naturall equity and merit, that he that is of a ſage and diſcreet underſtanding ſhould rule, on the other hand he ſhould obey, and be in ſubjection, that hath more ſtrength of body, and Arms to performe ſervice.*

9ly, Where there is no title but power, there can be no rule for Government but power and will: onely thath whic gives right to Magiſtracy muſt ſet bounds to it: how can they be tyed to Laws, in exerciſing Government that are tyed to none in coming by it? If the baſis or bottome of Government be power, that muſt alſo be the meaſure of it, [q] ſo that a Magiſtrate, ſo holding, is confined to no juſtice, or Law, reſtrained from no violence, or ſacrilege that his power may extend to. That power, againſt whoſe forcible intruſion the Laws, and Conſtitutions made by Prince and people, for the ſetling of the Crown

[o] Plin. Nat. Hiſt. lib. 11 Chap. 17.

[p] Ariſt politic. lib. 1. num. 8. *Naturali enim jure meritoq; fit ut qui provida mente ſagacig; fuerit, is imperet, ac dominatur, qui autem corporis viribus & lacertis hæc ipſa obire poſſit, is contra ſubjiciatur, & ſervire*

[q] *Nec quiſquam imperium ſine gitio quæſitum bonis artibus exercuit.* Tacit. Hiſt. 1.

Crown or Soveraigne rule, are of no validity, can reasonably have no obligation upon it from any other Laws made by the same parties; [r] the Authority that makes the Law is the Soul that quickens it; the Law springs from authority, as the act doth from its habit or principle, so that grant, or prostitute authority to the Sword as its right, and you subvert all setled Laws, whether fundamentall or superstructory, and this all experience, as well as reason, dictates, for where, or in what age did meer force assume the Empire without a lawlesse arbitrarinesse challenged to it self?

r *Magistratus est lex animata.* P. Martyr.

10ly, If you yeeld the Sword such a right where it can be master in the publick or civill State why should it not have the same interest in the private, domesticall, and personall? So that pyrates, theeves, and robbers, may justly claim a right to that which they can lay their hands on, and be accountable to none for their spoil and rapine.

ὁ ἀντιτασσόμενος.

11ly, Whereas the Apostle to the Romanes, Chap. 13. 2. forbiddeth *resistance* (or *contraordination*) *to the lawfull power ordained of God*, and that upon pain of *damnation* to be received by him that doth it, if force give a right to that power; his action, that resists with victory, shall be justifiable, and the resister shall gain a Crown instead of receiving damnation, and none shall fall under the guilt and penalty of resistance, but he that offers to resist, and cannot make it good. The sense then which this Position puts upon this text is catachresticall, and it glosseth the words so, as to be an incouragement to resist the power, for he that resisteth the power prosperously (according to it) possesseth justly that ordinance of God, and in truth purchaseth to himselfe (not damnation, but) domination,

Having thus, I hope, sufficiently cleered the duty of Allegiance to be not the violent intruders, but the oppressed and violently extruded Magistrates I shall proceed to other Reasons against Subjects giving up themselves to the obedience of a usurping party.

3. If I should do that, I should yeeld assistance to the Usurper in his wrong doing, and usurpation; and so become a partaker of his sin: obedience to one, as the supreame Magistrate, is a comprehensive thing, and includes many duties towards him as a power, *viz.* Receiving Commission from him for offices,

or

or acts other wayes not competible to me; maintaining and defending him in his power by pay, counsell, intelligence, Arms, and prayers; all which I am bound to yield the Usurper, to my power, if I resigne mine allegiance up to him: and how shall I do these things, and not 1. Support, and have communion with him in his wickedness. 2. Combine against, betray, and resist the right of the injurious dethroned Magistrate. 3. And make my self uncapable of obedience, or being a subject to the lawfull Power hereafter.

3. It were a publick wrong to the Nation I am a member of so to bestow mine allegiance; were I and the Country free from all tye of subjection (in the presupposed Case) to the expulsed Magistrate; yet I could not lawfully make such a private bargain of my Allegiance, its the part and duty of a particular person in a Nation (that is joyned together as one body politick or Common-wealth) not to choose his head, or supreme Governour by his single Election, or Vote, but when a new Magistrate is to be erected, or Magistate advanced, to attend the common and generall vote of the people, or body politick he is of; solitarily, or with a small party to alter the state and posture of my publick allegiance (in this case) would be sedition, and faction; the currint of the people or community I am of is to be followed, at least where they justly dispose of the Soveraignity over them. It was in it selfe a loyall, and right resolution (had it been in such a case as this. and not misapplyed) which *Hushai* expresst, *Nay, but whom the Lord and this people, and all the men of Israel choose; his will I be, and him will I follow*; It would be to me (I confesse) a difficult case, and harder than I will here undertake to resolve, if the body of the Kingdom (in the case in hand) should either collectively, or representively conspire; notwithstanding their Oaths, Vows, and Covenants, to abrogate the ancient Sovereigne Power, and to set up the Usurpers; but that's not the present case, here is no generall consent of the Kingdom presupposed, or pleaded for in the behalf of the Usurper; the dispute is about obedience to meer Usurpation. And in this state of things, to leave every man free to make over his allegiance by himself, is to open a doore to more divisions than ever yet were in any Age, or Nation, and would confound all, not an heptarchy;

1 Sam. 10. 27. 2 Sam. 19 41, 20. 1. but a chiliarchy, or myriarchy might follow, when *Saul* had a generall vote of the people to be King, they were children of Belial that refuſed him; and that *Davids* re-inveſting after *Abſolems* treaſon, and fall, the men of Iſrael challenged them of Judah for going about to reſtore the King with out them; the far greater part of the Kingdome, and that man of Belial, *Sheba*, the ſon of *Bichri*, was juſtly purſued with the Sword unto death, for blowing a trumpet of defection from *David*, when they both had conſented to re-advance him.

5. But there is a bar yet behind, of as main a ſtrength as any yet ſtood on, to keep back ſuch a ſubmittance to the Uſurper, and that is the Oaths, Vows, Proteſtations, and Covenants preſuppoſed above to be taken by the people, for their owning, obeying and defending the power of Magiſtracy diſplaced, and in oppoſition to whoſe right the Uſurper comes and continues in.

I have hitherto diſcuſſed the queſtion in a caſe without reflection upon any particular Kingdom, or real Subject; and ſo I ſhall do ſtill, onely I ſhall borrow leave, in the proſecution of this Argument, to preſuppoſe, in the aforeſaid Caſe, the Oaths and Covenants were the ſame that have been taken in this Kingdom of *England*, the Authour of the book called, *The lawfulneſſe of obeying the preſent Government*, in his 11. page, moveth an inquiry thus: *It were good to conſider whether there be any clauſe in any Oath or Covenant, which, in a fair and common ſenſe forbid obedience to the Commands of the preſent Government, and Authority*: and proceeding, he onely makes enquiry into one clauſe of the Oath of Allegiance, which he ſtrives to bow to his ſenſe, and paſſeth by all beſides. I ſhall ſpeak to what he ſaith on that clauſe anon; and ſhall here onely interrogate, or propound by way of *quære*, concerning divers clauſes in the Oaths, Proteſtations, Vows and Covenants.

Firſt, concerning the Oaths of Allegiance and Supremacy, whereas in the former, it is ſworn, I *ſhall bear faith, & true Allegiance to his Majeſty, his Heirs, and ſucceſſors: and him and them will defend to the uttermoſt of my power, againſt all conſpiracies, & attempts whatſoever, which ſhall be made againſt his, or their perſons, their Crown, or dignity.* And in the latter, I *ſhall bear faith, and true allegiance to the Kings Highneſſe, his Heirs, and lawfull Succeſſors:*

ſors: and, my power, ſhall aſſiſt, and defend all juriſdictions, priviledges preheminences, and Authorities granted to the Kings Highnes, his Heirs, and Succeſſors; or united and annexed to the Imperiall Crown of this Realm. Firſt, do not theſe Oaths bind, whomſoever hath taken them, clearly, plainly, and *in terminis* to an *Allegiance*, over living his *Majeſties perſon*, and pitched upon his *Heirs and Succeſſor*; ſo that he is not free from the Oaths at his *Majeſties* deceaſe, or then left at randome to pay his *Allegiance* to whom he will chooſe? 2. Do they not intend by his *Majeſties Heirs and Succeſſors*, the ſame perſons, joyning them together with the copulative (*and*) and not uſing the diſcretive (*or*) and the former Oath twice comprizing both in the following clauſes under the ſame terme or pronoune, (*viz. them, theirs*) ſo that, according to theſe Oaths, *His Heirs*, are of right *his Succeſſors*, and none can be *his Succeſſor*, (whileſt he hath an Heir, and longer the Oath laſts not) but *his Heir*; and if any *conſpiracy or attempt* ſhould be made to prevent *his Heir* from being and continuing *his Succeſſor*, or to make any one *his ſucceſſor* that is not *his Heir*, (if he hath one) is not the Subject ſworn, by vertue of this Oath, to continue *his allegiance* to *his Heir* as the *right ſucceſſor*, and to defend him in that his right to his utermoſt. 3. And doth not the tearm (lawfull) annexed to *Succeſſors* (in the Oath of Supremacy) manifeſtly exclude all cavill of a diſtinction betwixt *Heirs and Succeſſors*; the word (*lawfull*) (whether you interpret it of legitimation of birth, or proximity of ſucceſſion in regard of line, according to the Law of the Land, entailing the Crown upon his Majeſties iſſue; or rather both the latter including the former, reſtraining Succeſſors from meaning any other then his Heirs? 4. And do not both theſe Oaths binde the ſwearer to aſſiſt and defend to his utermoſt power, againſt all attempts, Monarchy, or the Kingly Office and Government (in the race of his Majeſty) clearly expreſſed by many tearms, to wit, *Their Crown or dignity, all juriſdictions, privileges preheminences, and authorities, granted to the Kings Highneſſe, his heirs and Succeſſors, or united, and annexed to the Imperial Crown of this realm* How then can he yield obedience to them that are not his heirs, nor lawfull Succeſſors, nor do ſo much as wear his Crown, or ſway the Regall Scepter? How can he not oppoſe, and withſtand

them in the assistance and defence of the right *of his Majesties Heirs and lawfull successors*?

2. Concerning the Vow and Protestation of the 5. of *May*, 1641. and the Solemn League and Covenant. 1. How can any that hath taken the said Protestation according to it *maintain and defend the true Protestant Religion, expressed in the Doctrine of the Church of England, against all Popery, and popish innovations within this Realm, contrary to same Doctrine*; and yet yield obedience to an usurping Authority, coming in, and holding in derogation of, and oppositon to the lawfull Prince; when as the publick doctrine of that Church (layed down in the 2. Tome of Homilies, and the last Homily thereof approved of by the 35. Article of Religion) fully and flatly refuteth, and condemneth any Subjects removing, or deposing their Prince, upon any pretence whatsoever?

2ly. How can any man according to the Protestation, *maintain and defend, the power and priviledge of Parliament*, and according to the Covenant *preserve the rights and priviledges of Parliament*, and yet yield obedience to a small party of one of the Houses of Parliament, as the Supreme Power, the said party excluding the rest of that House, and the other House wholly; and deposing the lawfull Prince, and abolishing the Office of the King, whose presence, personall, or legall, and politicall, hath been declared inseparable from the Parliament, and joyning with an Army, that with force hath demanded, and carried on these things?

3. How can he, according to the Protestation, *maintain and defend the lawfull rights and liberties of the Subject*; and, according to the Covenant, preserve the liberties of the Kingdom; and yet obey, and own a meerly usurped power. Whereas the most fundamentall civill Liberty of a Kingdom, and Subjects is to have a Government over them, set up by the constitution, or consent of the people; not obtruded on them by those, who of their own will and power, without any calling from them, assume it to themselves?

4. How can he, according to the Covenant, *preserve and defend the Kings Majesties Person, and Authority*, &c. and yet yield obedience to those usurpers, who, after his death, cast down his Authority, and place themselves instead thereof, as the

Supreme

Supreme Power; whereas his Authority, in the plaine intention of the Covenant, is to be preserved, and defended beyond the tearm of his life, and in his posterity; as it appeares from this clause compared with those words in the Preface, *Having before our eyes the glory of God, ---- the honour and happinesse of the Kings Majestie, and his posterity?*

5. Lastly, how doth he, according to the Protestation, *to his power, as far as lawfully he may, oppose, and by all good wayes, and means endevour to bring to condigne punishment all such as shall either by force, practise, counsels, plots, conspiracies or otherwise, do any thing to the contrary of any thing in this present Protestation contained*; and, according to the Covenant, *not suffer himself directly, or indirectly, by whatsoever combination, perswasion, or terror to be divided, or withdrawn from this blessed Union and conjunction; whether to make defection to the contrary part, or give himself to a detestable indifferency, or neutrality in this cause, which so much concerneth the glory of God, the good of the Kingdom, and honour of the King, but, all the dayes of his life, zealously continue therein against all opposition, and promote the same, according to his power, against all lets & impediments whatsoever*, that yieldeth allegiance, and obedience to a party standing, and leading all those that agree to obey them in so palpable contradiction, and opposition to some materiall points, and concernments of Religion, divers most fundamentall rights of the Parliament and people, and all the Authority and whole being of the King, contained and covenanted for, in the aforesaid Protestation and Covenant respectively.

CHAP. III.

The question discussed, Whether submission to, and acting under a usurped Power for a time be lawfull, with a reservation of Allegiance to the lawfull power supposed to be expulsed.

I Now come to enquire into the other opinion before mentioned, *viz.* That one may submit, and act under a usurped Power, for the time, and during the intervall of its prevalency; with reservation of Allegiance, as due and cordially devoted to the lawfull Power expulsed. And about this we

ſhall not inſiſt, becauſe we finde not much conteſtation or difficulty.

In regard of the juſtnes, and neceſſity of ſome things which may be the ſubject, or matter of the Uſurpers command, and the Arbitrarineſſe of others, and the lawfulneſſe of either, not depending upon the command or warrant of a ſuperior, but reſulting out of the nature of the action it ſelf; ſo that a private man might do it, were there no Magiſtrate to command it, or no command from the Magiſtrate for it. We muſt needs grant, there are things which may be done upon the Uſurpers command of injunction (though not becauſe or by vertue of it) for the command of him that unwarrantably aſſumeth power, cannot, by it ſelf, make that unlawfull which were lawfull if that were not. For inſtance, the performance of acts of common equity, charity, order, publick utility, and ſelf-preſervation, is requiſite: ſuppoſe it be in concurrence with a Uſurpers command, and in thus doing we do materially, but not formally obey him; the ground of acting, in ſuch things, being not at all any relation, or principle of ſubjection to him; but conſcience of obedience to the will of God, and due reſpect to others, and our own ſafety and good. Under this ſort of actions I comprehend.

1. Taking up Arms for the preſervation of our ſelves and the Country againſt a Common Enemy, upon the Uſurpers, ſummons; the which we might do of our ſelves, were there no Authority, or if a juſt Authority were in being, yet if it could not, or did not, maturely enough call us forth to it.

2. Payment of Taxes, and bearing other impoſitions for the uſurping power, where, and while we are under his compulſive power, becauſe ſuch contributions may, and will be taken whether I will pay them or not; and I yield them under his enforcement, as a ranſome for my life, or liberty, or ſomewhat elſe that is better to me then the payment; and conſequeutly I am to chooſe the parting with it as the leſſe evill, rather then with that which is better, which to looſe is to incur a greater evill for the avoidance of a leſſe. In this point Mr. *Aſhcam*, the afore-named Author, (Part. 2. Chap, 1. Page 35.) determineth well (had he not contracted (as I underſtand him) that he delivers in this and the next Chap. with that aſſertion of his

part,

part. 1. chap. 6. page 25.) distinguishing rightly *betwixt that which cannot be had, nor the value of it, unlesse I actually give it; and that which may be taken, whether I contribute it or no.* Or this latter kind of paying of Taxes in this case; *a* herein I am but morally passive, as a man that is fallen into the hands of a pack of bloody theeves; and, being demanded it, takes his purse out of his pocket, and delivers it to them, *though with his own hand* (saith that Authour) *he puts his purse into their hands, yet the Law calls not this a gift, nor excuseth the thief for taking it, but all contrary.* Or a man, apprehended by a party of the invading Enemies, or Usurpers Army, walks or rides along with them to their muster or battell, when as he cannot escape them, and otherwise they would draw him. But it is commonly objected thus.

Obj. This payment or other charge is taken, and will be used to an evil use as to maintain Usurpation. *A*: But that's beyond my deliberation, not in my power to prevent; it will not be avoided by putting them to force it from me; but rather more gain will accrew to them, and damage to me if I stand out; my denying will be made an occasion by them to take more: this case is like that of entering into a Covenant with those that in covenanting we know beforehand will swear by a false God, wherein Divines *b* resolve, the party swearing by the true God participateth not in his sin that sweares by a false one, in as much as he communicates with him in the Covenant, not in the Oath taken on his part, and provides thereby for his necessary security: and thus did *Abraham* and *Jacob*, in their respective Covenants with *Abimeleck* and *Laban*.

3. Complaining, petitioning, or going to Law before the Magistrates or Courts authorized by the Usurpers, (Provided, you give not the Usurpers, to whom you petition, such Tiles as you give to the lawfull Magistrate.) In thus doing, I seek my necessary self-preservation; neither do I yeeld, or ascribe to them to whom I have recourse any just power of judicature, or participate in their sin of usurping it, onely I acknowledge they have might and ability in their hand to right me; which, though they ought not to assume, yet I may take the benefit of their unjust use of it; as a poor man may receive relief at the hands of him that hath gotten those goods he distributeth unjustly

a *Nolite igitur fortunam in culpam convertere; neq; regis injuriam hujus crimen putant; nec conciliun ex ne cessitate, nec voluntatem ex vi interpretari.* Cicero Orat 39. pro. C. Rabino Posthumo. So he defendeth *Posthumus* his changing his Romane gown for a cloak at Alexandria, as compelled by K. *Ptolomie.*

b Augustinus ad publicolam. Epist. 154. Gen. 21. 31. 31. 31.

Excusantur a peccato in utendi tyrannum ad actum & opus illicitum potentes ab illo justitiam, qui a non.

petunt actum illicitum, ſed juſtitiam illius actus illeiti piæ interpretandæ ſunt petitionis tam juſtitiæ quam honeſtæ gratiæ quæ offerantur tyrannis, ſcilicet ſi vis, ſeu ex quo vis detinere, & exercere hoc dominum, utere illo iuſte, utere honeſte, utere piæ, utere ad utilitatem publicam, & privatorum, prout decuit dominium non petunt actum uſurpatum, ſed qualitatem ſanctam inactu uſurpato exercendo. Cajetan ſummula, Tit. Remp. tyrannice, &c.

unjuſtly; and I may receive my money with a good conſcience from the hands of a thief that is willing to returne it to me, though he tooke it by robbery, from another thief that robbed me of it; and if the party, with whom I have a controverſie for my right, will agree to refer the matter, betwixt us, to a private perſon as an arbitrator, and ſtand to his arbitrement; that is a lawfull meanes of coming by mine own, though by his help and award that hath not claime of Authority over me? my ſubmitting therefore my private right to the judgement of a Uſurping Magiſtracy, is no placing or owning a publick power of Judicature to be in him. It hath beene ordinary (and there is no doubt of the lawfulneſſe of it) for a Souldier to ask quarter, a priſoner liberty, a man his plundered goods of his Enemie: yet in all this there is no conceſſion of a legall power in that Enemie to be a judge over the ſaid Petitioners, either in caſe of life, goods, or liberty; onely in the form of addreſſe to the Uſurper, we had need be cautelous that ſuch a ſtyle be not uſed as will be a plaine conceſſion of his title to the power which he uſurps.

But in granting liberty of concurrence with ſome commands of an uſurped Authority, we neither yield any obedience at all to be due, or performable to it; nor can we allow a correſpondence with it in divers things, and therefore we are to put a difference.

Firſt, betwixt things that are in themſelves neceſſary, and thoſe that are of a middle and an indifferent nature in themſelves conſidered. In the latter, though, in ſome caſes, I may act upon the Uſurpers injunction; as our Saviour payed tribute where he was not bound to it, to avoid ſcandall; yet I muſt be cautious, 1, Of owning, juſtifying, or upholding the uſurpation, or injuſtice of the party commanding, the very appearance whereof I muſt as much as I can avoid. So did our Saviour, in paying the tribute-gatherers their demand, by declaring his freedom, and the conſideration upon which he paid, *viz.* not the equity of the demand, but his willingneſſe to prevent ſcandall. And therefore in the obſerving of a duty of Religion, neceſſary in it ſelfe, and appointed, by unjuſtifiable Authority, to be kept on ſuch a ſet day, which is in it ſelfe, arbitrary; the beſt way is, to take another day for it

for

for the ſhunning of the appearance of the evil of obeying an unjuſt Power. 2. Of doing any thing that I may forſee will bring a worſe ſcandall being acted, than the omiſſion of it would; it being required of a Chriſtian, where ſcandall-taking lyes both wayes (as not ſeldom it doth) to ſhun the offence that is of worſe conſequence, which is uſually that which is more generally taken, or by Perſons more conſiderable, or worthy of tender reſpect. The Apoſtle *Paul* condemned Judaiſme in *Peter*, and others at *Antioch*, practiſed in favour of a few, where the moſt part were Gentile Chriſtians, *Gal.* 2. 11. *&c.* but admitted it at *Jeruſalem*, where the greater ſort were believing Jews, *Acts* 21. 20. *&c.*

2. Betwixt moral, or prudential Acts competible to private men, or Subjects, and political Acts, or judicial Proceedings that flow from Power, and Authority inherent in the Perſon that acts them, or are the Iſſues of diſtributive Juſtice, and either come forth from a Perſon clothed with Government, or unto which is requiſite a ſtampe of Authority to make them lawfull, and juſtifiable: as to bear the Office of a Magiſtrate, or Commander in Civil or Military Affairs, or to be any under-Agent, or ſervant in carrying on, or aſſiſting the Government. An Uſurper, in giving out Commiſſions, Commands or Warrants for Proceedings of this Nature, I conceive may not, in this kinde, be obeyed. Men are not to act as ſubordinate Rulers, or Agents, under ſuch a Power, or as ſent by him, as Supreme in the Apoſtles ſenſe, 1 *Pet.* 2. 14. For,

1. The Uſurpers Authority being indeed null, and of no effect, he being in truth but in a private mans capacity, unto the Power he aſſumes; he cannot communicate, or derive any Authority unto me, whereby I may act, that which before I could not; ſo that thoſe Actions, which require the ſeal of Authority to make them lawfull, and which without it would be irregular and ſinfull, it muſt needs be clearly unlawfull for me to do, by vertue of his Commiſſion. Conſcientious adviſed men will generally judge it preſumption violence, oppreſſion, bloudſhed, reſpectively for a private man to take upon him of himſelfe, to impriſon, chaſtiſe, amerce, or put to death any ſuppoſed, or really manifeſted malefactour; and if I have no other humane Warrant but the Uſurpers, it leaving me but in

a private mans capacity, will leave my Actions of that Nature under no better Character. If I ſhould, being about ſuch undertakings, be asked that queſtion of our Saviour, *Luke* 12. 14. *Man, who made thee a judge or a divider over us?* What ſatisfaction would it be to him that ſo enquireth, or to mine own Conſcience to alleadge the ſame of the Uſurper, who, as to Supreme Authority, and conſequently to the making of a competent Officer of Juſtce, is as good as no body.

2ly, So to act would make me a Uſurper alſo, and bring me in to be a Partner in the ſupreme Uſurpers ſins; in as much as political or State-inſtruments, to wit, their ſubordinate Agents, ſhare together with the ſuperiour in the moral qualification of the worke of Government.

3ly, This were manifeſtly to uphold, and maintain Uſurpation; thus I ſhould contribute aſſiſtance and ſupport to the unjuſt Power, and oppoſe the Right of him, or them againſt whom he holds it; they that favour this kinde of acting as requiſite, in regard of the Subjects Protection, and ſafety, ſeem not to conſider, that a ſubordinate Officer acting looketh upward, as well as downward; and he that is ſuch a one to the Uſurper, ſerves his turne of ſubſiſtence in an unlawfull Poſſeſſion as much, or more than the Subjects benefit. For firſt, he acknowledgeth and juſtifieth his Authority as ſufficient and valid by officiating under, and by it. 2. He keeps up that Authority, and extends it to as many as he hath to do with. 3. He gives an Example and Encouragement to others to embrace and propagate it, as he himſelfe doth. 4. He layes an Engagement upon himſelfe to ſtand or fall with the Uſurper; and ſo to do his utmoſt for him. 5. He involves himſelfe, either wittingly, or blindfoldly in a concurrence with thoſe Counſels, and actions, which both in their own nature, and in the intention, and projection of the Vſurper, directly tend to the Vſurpers eſtabliſhment, and the impeachment of the lawfull Governours claim, and re-advancement.

Vpon theſe Grounds, and the like, the ſecluded and the ſejoyned Members (in the Caſe ſtated, *Chap.* 1.) had need be adviſed well before they enter, or act among the preſuppoſed Vſurpers: though they might be admitted by them without queſtioning, or purging, I queſtion how they can enter amongſt

amongst them without self-soyling: though they should, in going in, resolve to act honestly, yet, I see not how they can be untainted in a concession with those, who in their present comprehension or totality, assume a power not legally in them, and act legislatively, and otherwise in the highest sphere of Supremacy: a force being upon the House, and the majority of Members, and the Authority of the King, and the Lords-House being professedly excluded by them. They that are out may do well to resolve, before they joyn; *How it can be lawfull for them that sit to act at all (though never so just things) the whole, or body to which they belong, being so mangled in its Members, and manacled in its freedome. And if at all they may act, how according to Law, conscience, and their Oaths and Covenants, they can govern in that solitarinesse of supremacy, and deposition of their compeers:* If they think these things unjustifiable in them that sit, have they not cause to be wary how they involve themselves in such mens actings, whilest they stand in that posture? Besides, that they in comming in to help to strengthen the Usurpers, by encreasing their number, and giving them countenance in the eye of the Kingdom, as much as if they in all things concurred with them; for without the House, who knows how men sway, or give their votes? And, on the other hand, they weaken and much prejudice the claim of the lawfull Power, by appearing on the contrary party, putting themselves into an incapacity to act for it, as otherwise they might, and engaging themselves to assist, or at least, not to oppose the Usurpers.

Finally, let them recollect, before they enter that doore, what they have sworn to his late Majesty, his Heirs, and lawfull Successors; what to the Parliaments Power, rights and priviledges, and what to the Kingdom, and Subjects lawfull rights and priviledges; and deliberate how the keeping of those things, and sitting down with these men, will be reconciled. I finde that even wise Heathens have scrupled at this, without the supposition of such Oaths,

Et magnum sit τῶν πολιτικωτάτων σχημάτων veniendumne sit in Concilium tyranni, si is aliqua de re bona deliberatur: ut sit. Quare si quid ejusmodi evenerit ut accersamur, quid censes mihi faciendum, ubiq; scribito Nihil enim mihi adhuc accidit, quod majoris consilii esset. M. T. Cicero epist. ad T. Pomp. Atticum. l. 10. ep. 1.

CHAP. III.

The obligatorineſſe of the Oaths and Covenant, urged in the ſecond Chapter, againſt obedience to Uſurpers, made good againſt divers late Authours.

BEfore I take in hand to anſwer Arguments that are brought for the Confirmation of thoſe two Opinions for obedience to Uſurpation, againſt which I have argued in the preceding Chapters; it will be convenient in this place to take notice of ſuch Allegations and Exceptions, as are made againſt the Obligation of the Oaths and Covenants before urged, as binding out from that obedience: ſundry late Authours having pleaded that the Oaths, and Covenant either are not now in force, but expired, or do not extend to, and binde in the caſe to which they are applied. I begin with the Remonſtrance preſented to the Houſe of Commons, *Novemb.* 20. 1648. which unto the Clauſe in the Solemne League and Covenant, Art. 3. obliging *to endeavour to preſerve and defend the Kings Majeſties Perſon and Authority, in the Preſervation and Defence of the true Religion, and Liberties of the Kingdoms*: alledgeth divers things, ſome of which concerne onely the Obligation to the Preſervation of the Kings Perſon, thoſe are paſt Conſideration, other reflect upon it in relation to his Authority, as unto which I have urged it to be ſtill to be in force, and therefore ſhall examine what the Remonſtrance ſaith for the invalidating of it as unto that, bringing in onely ſo much of its Argumentation, as can be conſtrued to tend to this purpoſe: and of this Nature I obſerve two Allegations.

1. *The words (in the Preſervation and defence of the true Religion, and Liberties of the Kingdoms) are a reſtriction to the Engagement for Preſervation of the Kings Perſon, and Authority, ſo as to oblige them to no further then, nor in any other way than ſhall be conſiſtent with the Preſervation and defence of the true Religion, and Liberties of the Kingdoms, but if by reaſon and experience we finde the Preſervation and defence of his Perſon to be not ſafe, but full of viſible danger (if not certainly deſtructive) to Religion, or publike intereſt, then ſurely (by the Covenant it ſelfe) the Preſervation of his Perſon or Authority is not to be endeavoured ſo far, or ſuch a way, or at leaſt the Covenant obligeth not to it but againſt it*: page 55, 56. 1. It

1. It is not necessary nor proper to take the words, in the preservation, &c. as restrictive to the engagement either way, that is either for the preservation and defence of the Kings person and Authority on the one hand; or the true Religion and Liberties of the Kingdome on the other: It is not necessary (I say) for those words in the Article (in our severall vocations) are an expresse, and fully sufficient constriction, taking in and binding to all lawfull and just wayes, preserving and defending each of them, and excluding all unlawfull. Neither is it proper [in] there being clearly conjunctive, and as much as [with] and equally looking both wayes, that is, both to the preservation and defence of that which goes before, and that which follows, unto the preservation and defence of all which, (though they be not of equall worth or interest, so that one of them must come behinde the other, in the order of our endevours of their preservation and defence, yet) the Covenant bindes equally (in regard of the firmnesse of the obligation) yet if any shall still contend, that cause to be restrictive in that manner which the Remonstrance saith, I will not strive in a verball contention with him; for the taking of it so, no more lesseneth our obligation to the preservation of the Kings Authority, then if it had not been inserted; we being tied notwithstanding it, to all just wayes of preservation thereof, and no more had been involved if it had been left out.

2. But the sinews of this Argument lyeth in the pretended or implyed inconsistency betwixt the preservation and defence of the Kings Person, and Authority, and the preservation, and defence of Religion and the Kingdoms Liberties, unto which I say:

1. There is doubtlesse a fair consistency, non-opposition, or agreement betwixt the safety of every one of these, the being of each of them may and can stand with the other, it is a groundlesse surmise, and grosse absurdity to imagine an inconsistency betwixt the just interest of any of them, our taking of them together in the Covenant yeeldeth thus much; if there were any incoexistency amongst them, we could not have sworn to their joynt preservation; or if we did, the Oath was of impossibles, and so (as to this branch) both unlawfull and void, or non-obliging in the making of it *a*.

a Regula j rei impossi nulla obli

2. And endevour to preſerve the one and the other will well enough ſtand together; a lawfull power indeed actually and effectually to preſerve them all may happen to bee wanting, and any one of them may fall under danger, and I may want juſt means to relieve it, but an endevour (which can onely import a doing what is within power and warrant) may be yeelded ſtill to the preſervation of every of them.

3. Seeing then that an inconſiſtiblity either of the things one with another, or of the endevouring their preſervation cannot be pleaded as poſſibly incident or occurrent, evident it is, that there cannot at any time lye a neceſſity of taking away of any of them, and that the Obligation of the Covenant to the endeavour of preſerving every of them continually ſtands in force during their reſpective exiſtence, and conſequently it bindeth out from intending, ſeeking, attempting, or proſecuting the aboliſhing or deſtruction of any of them; for that is indeed truly inconſiſtent with the ſaid endeavour, and therefore a palpable violation of the Covenant.

It muſt here be granted, that the lawfull and neceſſary Defence and Preſervation of one of them, ſometimes may ſo imploy me that I cannot at that time by the ſame meanes act for the others ſafety; yea, what I act for one, may put the other in hazard, and in the iſſue not onely be accompanied with, but (though againſt my will, and endeavours to the utmoſt of my lawfull capacity) contingently, and beſides my intention prove the joſſe and ruine of the other: and this is incident not from any contrariety or inconſiſtency that is betwixt them, but both becauſe they are diſtinct, and ſeparable things, and ſo cannot alwayes, and by the ſame *medium* be concurrently proſecuted: and becauſe ſome of them are more worthy than the other, *which muſt therefore have the prehéminency thus farre, that if they cannot altogether with my beſt endeavours be ſecured, I am to preferre the ſecurity of the moſt precious, and expoſe any of the other rather to danger than it. As for inſtance, it will* (I ſuppoſe) *be admitted to agreeable to the Covenant, for the Kingdomes rather to omit the ſafeguarding of their Liberties, and put them to the hazard then the true Religion, where both cannot be joyntly be put out of danger*: but all this amounts not to a diſobligement from

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the endeavour of preſerving them all, nor to a Liberty upon any emergency of active, direct, and purpoſed making away, or removing any of them, though under pretence of ſecuring the other. I have read of one *Alcon*, who finding his ſon faſt on ſleep upon the graſſe, and a Serpent creeping upon his breaſt, he not apprehending how otherwiſe it was poſſible to ſave his ſon, took his Bowe, and ſhot at the Serpent upon the Boyes breaſt, which (though to the manifeſt endangering of his Life) yet he choſe rather to take that Courſe, than by ſuffering the Serpent to leave his Life to a more certain Deſtruction; and either his Art or good hap was ſuch, as that he prevented and ſlew the Serpent, and preſerved his Son *(b)*: thoſe whom we are bound and moſt ſolicitous to preſerve, we may upon an extreme Exigence put in ſome hazard that we may preſerve them; but there is a great difference betwixt this, and a deliberate purpoſed, declared proſecuting them to Deſtruction.

b *Ars erat eſſe patrem vicit natura periculum; Et pariter juvenem ſomnoque & morte levavit.* Manilius li. 3.

3. But how doth the Remonſtrancer prove the Aſſumption, viz. *The inconſiſtency pretended betwixt the endeavour of the Preſervation of the Kings Perſon and Authority, and the Preſervation of Religion and Liberty?* thus he ſaith, *By reaſon and experience we finde the Preſervation and Defence of his Perſon and Authority, to be not ſafe, but full of viſible Danger (if not certainly deſtructive) to Religion, or publike Intereſt.*

If the one could be ſaid to be *certainly deſtructive* to the other, you would have ſaid it without an [*if not*] but it ſeems you have not confidence to aſſever ſo much, and yet they cannot be purely inconſiſtent without ſuch a deſtructiveneſſe; ſo that your own extenuation ſufficiently diſcovers the weakneſſe of your proof: all that you affirme is, *That there is no ſafety, but a full viſible Danger* in the Preſervation which you impugne.

1. The *Danger* you pretend is in the diſpoſall and uſe of the *things to be preſerved*, not in the Nature of the *things*. For inſtance, *the Kings Authority is politically and morally good, the Ordinance of God, and if well uſed may be eminently advantageous; if evilly uſed may be dangerous enough to Religion and Liberties: the like alſo may be ſaid of the Priviledges of Parliament, and of the Liberties of the Kingdomes in relation to Religion, and to each other*; will you thence infer an inconſiſtency of theſe with Religion, or a diſ-obligement from

from the Covenant for Preſervation and Defence of theſe?

2. As there may be danger that way to the things ſpecified, ſo there may be danger and inſecurity to the ſame things on the other hand, *viz.* in the Deſtruction of the Kings Perſon (ſuppoſe it were undone) and Authority, and let impartiall Reaſon and Experience judge, whether the Preſervation or Deſtruction thereof hath more Danger in it to Religion, and the Kingdomes Liberty.

3. But ſeeing there may be ſome Danger on each ſide, and in the Preſervation of the Kings Authority, there is no more pretended but Danger, and that but of ſuffering, not of ſin, it is apparent, that as there is no ſuch inconſiſtency as is intimated, ſo the Obligation of the Covenant to the Preſervation of the Kings Authority ſtands good, and our ſafeſt way is to avoid the horrid ſin, and greater Danger of the Covenant-breaking, by ſtanding upon the ſaid Preſervation,

Secondly, The other thing which the Remonſtrance alleadgeth, and is to be cleared, is this, *When ſeverall Perſons joyning to make a Covenant, do make a covenanting Clauſe therein to the good or benefit of another Perſon not preſent, nor Party to the Agreement, but whom, and whoſe Intereſt they would willingly provide for as well as for their own, to the end he might joyn with them in the Agreement, and partake the benefit thereof as well as themſelves, if this abſent Party (when it is tendered to him for his conjunction) ſhall not accept the Agreement, but refuſe to joyn in, and oppoſe it, and begin, proſecute and multiply conteſts, with all the Covenanters about the matters contained in it. Surely that Perſon is ſo doing by his once refuſing upon a fair and full tender, ſets the other Covenanters free from any further Obligation, by vertue of that Covenant, as to what concernes his benefit or intereſt therein. Now whether this be not our Caſe,* &c.

c *Si is cui juratur ratum habuerit juramentum, & velit ſervari, non poteſt ab alia quacunque tertia perſona relaxari ratio eſt, quia nemo poteſt jus alterius acquiſitum, niſi ipſe conſenſerit adimere.* D. Sander. de Juram. 3. rom. oblig. p ælect. 7. Sect. 8.

1. True indeed, a Releaſement from Covenants and promiſſory Oathes, which concerne matters betwixt Man and Man is granted lawfull ſome wayes: But, 1. this muſt be done by the Party with whom the Covenant, and to whom the Oath is made *c*), but as the Remonſtrancer acknowledgeth, this Covenant was made the King being not preſent, nor a Party covenanting, or covenanted with, but a third Perſon, the Perſons covenanting, and covenanted with mutually (as by the Introductory part is manifeſt) were the Noble-men, Barons, Knights,

Knights,&c. in the Kingdomes of *England, Scotland*,and *Ireland*, it was (it may be) desired, and hoped that the King and his issue would afterwards approve and joyn in it, but the Covenant was actually plighted, and therfore did actually bind in every branch of it they not taking it ; and (the parties with whom we covenanted not releasing us) the pretended refusall of the King could be no discharge from it. 2. A releasement can be made by the party covenanted with and sworn to, onely where the Covenant is for the particular and proper interest of that party, or so farre onely as concerneth him, but not to the prejudice of a third parties concernment without his consent *; but the Covenant (even in that part of it)was not meerly or chiefly of a private or personall importance to the King himselfe, but was and is of publike interest to the Covenanters themselves and the Kingdomes; the Kings refusall therefore and opposition to it, could be no release from it: we say on all hands, the King is for the Kindome as the means is for the end. *We have ten parts in the King*, said the men of *Israel* of *David*;and at another time they said and sware,*Thou shalt no more go out with us to battle, that thou quench not the light of Israel. What portion have we in David? and we have none inheritance in the sonne of Jesse*, the ten Tribes said, when they made a revolt from, and rebelled against *Rehoboam*.

* *Dico sexti relaxationē partis valere ad vinculū juramenti solvendum, quantū ipsius interest: non tamen valere in præjudicium tertiæ personæ. Ratio est, quia potest quilibet per actum suum de jure proprio quantū vult remittere: sed non potest quisquā de alieno jure quicquam demere, ipso vel inconsulto vel invito, si alterius cujusquam inuerfit ex aliquo suo jure obligationem non solvi, obligatio non solvitur.* Ibid.

The Introduction of the Covenant in laying downe the concernments and ends for the making of it, expresseth it selfe thus: *Having before our eyes the glory of God, and the advancement of the kingdome of our Lord and Saviour Jesus Christ, the honour and happinesse of the Kings Majesty and his Posterity, and the true publike liberty, safety and peace of the Kingdoms, wherein every ones private condition is included.* And a little afterwards, *We have for the preservation of our selves and our Religion, from utter ruine and destruction, resolved and determined to enter into a mutuall and solemne League and Covenant*,&c. And Art.6.it stileth its cause, *This common cause of Religion, liberty and peace of the Kingdomes: which cause*, it saith presently after, *so much concerneth the glory of God, the good of the Kingdomes, and honour of the King.*

2. The KING never refused to agree to, nor did he oppose the matter of this particular Clause: As touching this there could be no dissent on his part, His prescribing and standing

upon the Oathes of Allegiance and Supremacy, wherein this clauſe is contained, his avowing the difference and war on his part to be for the defence of His Perſon and Authority: His putting forth Oathes to them that adhered to Him for the preſervation of theſe, makes it as clear as noon-day that He refuſed and oppoſed not this Branch. Now upon this conſideration, the Remonſtrancer hath not onely failed in his allegation, but overthrown his own Argument: he ſaying in the place before cited, *Although the Kings refuſing ſets the Covenanters free from any further obligation by vertue of that Covenant, as to what concernes his intereſt and benefit therein, yet the Covenant as to other matters concerning the right and benefit of the Covenanters one from another, ſtands ſtill obliging, and in force.* I may by the ſame reaſon ſay, the Kings refuſing the Covenant upon exception againſt other clauſes, not this, and his oppoſing other matters in the Covenant, not this, could not diſ-engage or releaſe the Covenanters from this, about which there was not the leaſt diſſent or reluctancy, but a concurrence full enough on his part: ſo that the Covenant muſt ſtand ſtill obliging and in force as to this part.

3. If the Kings ſaid refuſall and oppoſition could have diſcharged us from this member of the Covenant, as to his owne perſon and intereſt in the Authority, yet with all your ſtraining you cannot ſtretch them to our releaſe from preſervation and defence of the Kingly Authority in relation to his Poſterity, who were in proximity to him intereſted in it; and for whoſe intereſt therein the Covenant was alſo made *; and whoſe refuſall of it, nor yet a tender of it to them, you do not, cannot once plead.

* Having before our eyes the honour and happineſſe of the Kings Majeſty, and his poſterity.

I have done with the wrong gloſſe of the Remonſtraneer, endeavouring to impeach the obligation of this clauſe of the Covenant. I finde another (a dear friend of His) tampering with it alſo to elude the tye of it; and he offers it no leſſe violence, but in a more unhandſome and groſſe manner. It is that Polemick, or Army Divine, M. *J. G.* In his defence of the Honourable Sentence, &c. The man in that Book undertaketh, and bends his skill to a double, unhappy, and croſſe deſigne, to wit, to varniſh and guild over that which is very foul, and to beſmear and obſcure that which is very clear. In his proſecution

ſecution of the latter he falls upon this ſentence of the Covenant, in dealing with which he correſpondeth with the Remonſtrancer, and as this hath challenged to himſelf a prerogative to enforce men and Magiſtrates, ſo doth he arrogate to himſelf to be a bold inforcer of words and Covenants; a more ſtrange and preſumptuous perverting of plain words I never read nor heard, then that which he uſeth to this clauſe, when he ſaith, p. 51. *Evident it is, that thoſe words in the Covenant in the preſervation and defence of the true Religion, and liberties of the Kingdomes, import a condition to be performed on the Kings part, without the performance whereof, the Covenant obligeth no man to the preſervation or defence of his Perſon or Authority.* And this condition he makes to be, p. 52,53. *That he preſerve and defend the true Religion, and liberties of the Kingdome:* and of this his paraphraſe of the words he ſaith, *If this be not the cleare meaning and importance of them, the Covenant is a Barbarian unto me, I underſtand not the Engliſh of it.* The vaſt exorbitancy, audaciouſneſſe and impiety of this his wreſting and ſtraining of theſe plaine words, I leave the Reader to take the meaſure of: I ſhall onely endeavour to free them from this his diſtortion.

1. Let the words themſelves ſpeake, they doe not ſay in His preſervation and defence, &c. but in the preſervation and defence, &c. plainly referring to the ſame preſervation and defence of Religion and Liberties which is before promiſed, and ſworne in this and the preceding Articles, and as evidently referring to the ſame perſons preſervation, and defence of them here, which are to preſerve and defend them in the former clauſes, and which are to preſerve and defend the King's Majeſties perſon and Authority in this, *viz:* the Covenanters. If the Covenant had intended to pitch the preſervation and defence in this clauſe upon another perſon, or perſons, as the Performers, beſides thoſe to whom the ſame actions are referred immediately before, it would have pointed them out diſtinctly: but when it expreſſes no other, ordinary conſtruction will attribute them to the parties before nominated: and no regular conſtruction can put them upon any other. This reading is plaine Engliſh to him that knowes the language, and will underſtand, and Maſter *G.* proves himſelfe a barbarous dealer with the Covenant, in that he will have it, either to admit of

his antigrammaticall ſenſe, or to be a Barbarian to him. I dare appeale to M. *Gs.* owne conſcience, if he be not either ſpeechleſſe or a Barbarian to him, whether when he tooke this Covenant, he underſtood this clauſe in the meaning he would now thruſt upon it; or rather hath not played the *Dædalus* ſince, in ſhaping and bringing forth this ſenſe to ſerve his turne, and defend what hath been ſince acted.

2. In making this the Importance of thoſe words, Maſter *G.* contradicts his friend, or Patron the Remonſtrancer, in his expounding of them, and takes away the very *medium*, or ground of his Argument before brought in out of his booke, *pag.* 55,56. and anſwered above: For he, *pag.* 55. takes thoſe words either *as a reſtriction to the Engagement for preſervation of the King's Perſon and Authority, to wit, as obliging no further then is conſiſtent therewith*: yea, he propoſeth whether the ſaid Engagement may not be ſo underſtood as *to be fulfilled in the preſervation of Religion and Liberties*; neither of which ſenſes can carry that clauſe to the King as the performer: and in *pag.* 56. he explaineth *this preſervation and defence of Religion and Liberties*, to be *the Parliaments covenanted utmoſt endeavour to preſerve them.* Let M. *J. G.* then leave endeavouring to reconcile the Covenant and his cauſe, which are too great odds to be reconcileable, and goe make the Remonſtrancer and himſelf friends, who differ ſo diametrically in their ſenſe of theſe words.

3. How will Maſter *G.* make this ſenſe of his, and the proceedings againſt the late King ſtand together? for before the King was ſo proceeded againſt, he had conſented to all that was poſitively propoſed to him for Religion, at leaſt for three years, and for the privative part propounded, to wit, the abolition of Epiſcopacy, he had not denied it, but granted the preſent ſuſpenſion, and referred the utter extirpation of it to the deliberation of the Aſſembly, and ordering of Parliament; againſt whoſe conſent he had agreed nothing ſhould be done for the reſtoring of it; and had granted fully the Parliaments Overtures for Liberties. Neither doth the Remonſtrancer, or any other (as farre as I have obſerved) inſiſt on the ſhortneſſe of the King's Conceſſions in any particulars of either nature, as the ground of thoſe capitall proceedings, but on the inexpiableneſſe of his former facts, and the unſafeneſſe of truſting him

for

for future upon any tearms. If then the King, immediately before the fatall proſecution againſt him, did (as his preſent ſtate would permit) concurre ſo amply in the preſervation of Religion and Liberties, they were bound that had taken this Covenant by vertue of this clauſe taken in Maſter *Gs.* ſenſe, whatever had been his former carriage) then to endeavour the preſervation of his Perſon and Authority. The Covenant in this branch is indefinite, and unreſtrained in regard of time; it doth not ſay (ſuppoſe M. *Gs.* meaning had been its words) we ſhall preſerve the Kings perſon and Authority, if he ſhall (within a yeare or two after this) preſerve Religion and Liberties; but obligeth the Covenanters whenever the King ſhould joyne in preſerving Religion and Liberties (as M. *G.* underſtandeth it) to the preſervation of his Perſon and Authority. Here then M. *G.* in ſtead of weakning the Covenant, as to the end it was urged by thoſe whom he oppoſeth, hath by wringing turned it againſt himſelfe, and that his adored Cauſe which he would have defended, and that with more ſtrength then is in any of thoſe reaſons (or rather ſhifts and colours) brought by himſelfe or any other *Roſcius*—— for it.

4. If that indeed were the ſenſe of that clauſe which he would out-face us into the accepting of, what can be ſaid againſt the binding of it to the preſervation and defence of the Kingly Authority ſtill? (though then the King be deceaſed) it being before proved, that this clauſe obligeth to it in reference to the Kings poſterity, againſt whom there can be no Objection of a faile in this ſuppoſed condition, it being unperformable without default whileſt poſſeſſion of the Authority is withheld; and the Authority being withheld before, either any refuſall of the ſuppoſed condition by him that ſhould performe it, or any overture to him for the obtaining of it be made.

I have thus done with the exceptions made againſt the obligatorineſſe of the Covenant, in the matter in hand; I now paſſe to the Examination of what is pleaded againſt the force of the Oaths of Allegiance, amongſt the Impugners of them; I'le begin with him whom I had laſt to deale with, M. *J.G.* who in the ſame booke, *pag.* 58, 59. 60. thinks to diſcharge us from theſe bonds, with a Reaſon framed as followeth.

(In recitall whereof I ſhall rehearſe as much of him as expreſ-

ſeth his Argumentation, omitting thoſe two heterogeneous inſtances [*of keeping back a mad mans ſword, and of a States diſ-engagement from league with another State that hath firſt broken league with it*] as impertinent both to his reaſon and our caſe.)

Peter Martyr (*ſaith M.* G.) *well obſerves concerning the promiſes of God* [*that they are to be underſtood according to the preſent ſtate and condition of things when they are made*] *meaning that no performance of them is intended by God, in caſe men ſhall decline from that integrity under which, and in relation unto which ſuch promiſes were made unto them: ſo neither are the promiſes of men, whether made with oath or without, to be ſo underſtood, as if the Makers of them ſtood bound to perform the terms of them under any poſſible change or alteration whatſoever in the Perſons to whom they are made.* Chryſoſt. *writing upon thoſe words,* Mat. 19.28. *ſhews, that* Judas *though the promiſe of ſitting upon a throne was made to him as well as to any other, yet by reaſon of that change which afterwards appeared in him, through his wickedneſſe, forfeited and loſt his right of intereſt in that promiſe: nor doth any promiſe, though confirmed with an Oath of allegiance, obedience, or ſubjection unto a King, and his Succeſſors or poſterity, binde any longer or otherwiſe, either before God or men, then whileſt, and as this King or his Succeſſors ſhall continue in the ſame deportment of themſelves in the diſcharge of their truſt, and adminiſtration of their power, whereby they commended themſelves to us at the time when we ſware ſuch allegiance to them, and in conſideration and expectation whereof the ſame was ſworne by us: therefore the King being ſo notoriouſly changed, &c. evident it is that God himſelfe by the tenour and importment of his promiſes, and Jeſus Chriſt by the like tenour and import of his, fully and fairly acquits us from all engagements and ties, which the Oath of Allegiance at the time of our taking it layed upon us.*

2 Pet. 1. 4. Pſal. 138. 2.

What? and muſt *the exceeding great and pretious promiſes of God,* and his fidelity and truth therein, *which he hath magnified above all his Name,* be thus traduced? muſt the honour of God, which is ſo much concerned in taking, and violated in breaking an Oath, be yet much more impeached in the bringing in, and miſ-reporting of his example to patronize mens falſhood and perjury therein? And when an Oath cannot lawfully be diſpenſed with, or juſtly rendred non-obliging, muſt the forcible and ungodly burſting of it aſunder be fathered on him, who

is

is *the Truth, the Amen, the faithfull and true witneſſe!*

But to endeavour a vindication briefly.

1. M. *G.* you have here done that learned and ſolid Divine *P. Martyr* a double wrong. 1. In curtailing his ſentence, and breaking it off in the middle, ſuppreſſing thoſe following words which would have cleared his ſenſe to be none of yours. 2. In miſ tranſlating the words which you cite, his words truly rendred and rehearſed out are theſe, *Therefore thoſe promiſes of God* (to wit, that of our Saviour. *Mat.* 19. 28. which he had in the Section laſt before brought in, with *Chryſoſtomes* interpretation upon it, quoted by you, and thoſe of *Gen.* 9. 2. *Jer.* 18. 7, 8. with *Chryſoſtome* alſo upon them) *are to be underſtood with reference to the preſent ſtate of things: wherefore when we hear the promiſes of God, it behoves us thus to conceive, either they have ſome condition annexed, or they are laid down abſolutely; Furthermore, either they are of force onely for the preſent time, or they muſt be fulfilled in after time* *. It is by this recitall evident, how you by leaving out the word [*illæ*] have falſified *P. Martyrs* text, who is ſpeaking onely of ſome particular promiſes, conditionally made, and (as he ſaith) reſpecting the preſent time, which he diſtinguiſheth from others; but you would have him underſtood of any promiſes, and draw an univerſall negative from his words.

2. You are not content to miſconſtrue this Servant of God, but you dare not miſ-repreſent, and miſ-ſtate the minde of God himſelfe; you ſay indefinitely of the promiſes of God, *That no performance of them is intended by God, &c.* whereas the Scripture is clear (and moſt unhappy were men if it were otherwiſe) that 1. there are abſolute promiſes wherein performance is intended by God, notwithſtanding men ſhall decline in their ſaid integrity, and whereunto ſuch promiſes have no relation as to their validity or fulfilling. Take for inſtance, *Pſal.* 89. 33, 34. *Hoſea* 14.4. *Ezek.* 36. 25. &c. *Heb.* 8. 10. &c. 2. In conditionall promiſes, though there may be partiall and temporary declinings in men from their ſaid integrity (as there was eminently in *Peter*, one of thoſe parties to the promiſe, *Mat.* 19. 28.) yet God performeth the promiſe to true beleevers, through and for Chriſts ſake, *In whom all the promiſes are Yea and Amen*, and that alwayes, if it be a promiſe of the life which

* *Promiſſiones itaque illæ Dei pro ſtatu præſenti rerum intelligendæ ſunt. Quamobrem cum Dei promiſſiones audimus ſic oportet cogitare: vel conditionem aliquam conjunctam habent vel abſolutè ponuntur: Dein, vel in hoc tantùm tempus valent vel in poſterum ſunt implendæ.* P. Martyr loc. com. claſſ. 3. c. 13. Sect. 5. miſ-cited by him. cap. 12.

2 Cor. 1. 20.

which is to come; and often, if it be a promise of the life that now is, namely, when it is good for them, according to those promises, *Psal.* 84. 11. *Rom.* 8. 28. 1 *Cor.*3.21. And if there be a performance by God, certainly there was an intention in him of that performance, notwithstanding such declining, *For he worketh all things after the counsel of his own will.* And for this you might have hearkned to *P. Martyr* your own Authour, in the place whither he referreth you in the Section quoted by you, speaking thus. *But because the conditions of legall promises could not be performed by men, God out of his owne mercy hath substituted Evangelicall promises in their place, which though they have conditions annexed, yet they are held out gratis.* And a little further he saith, *The Evangelicall promise may stand good without those conditions.* How this is, he presently after explaines thus. *Therefore impossible conditions are annexed, that men warned of their infirmity, and fully understanding it, they may betake themselves to Christ, of whom they being received into favour, and justification being obtained they may obtain those very promises, for as to them they of Legall are made Evangelicall* *.

* *Sed cum illæ ab hominibus præstari non potuissent, Deus ex sua misericordia subjecit promissiones Evangelicas illorum loco: quæ quamvis conditiones adjectas habent, tamen effruuntur gratis. Promissio Evangelica sine illis conditionibus constare potest, idcirco enim conditiones impossibiles adjectæ sunt, ut homines suæ infirmitatis admonerentur ea, quæ penitus intellecta, se conferant ad Christum à quo recepti in gratiam, adepta jam justificatione, illa eadem promissa possent obtinere. Nam quod ad ipsos attinet, jam ex legalibus redduntur Evangelicæ.* P. Mart. loc. com. Class. 3. c. 12. Sect. 4.

3. You rest not in this mis-alledging of Gods promises, (though in it you bewray audaciousnesse and unsoundnesse enough) but you rise higher in presumption, making an odious comparison, or rather equality between God and Man, in promises and covenants, whereas the case of the covenanting of these two is farre enough different; for if it were granted, that God in some of his conditionall promises intendeth no performance nor obligation on his part, but upon condition of mans perseverance, must there needs be therefore an equivalency or conformity throughout thereunto in mans Covenants with man? must they therefore be all of them so made or understood? or rather is there not of right a vast disparity? God is no mans debtor, he is not bound to man, there is no right in the creature from God, he can claime nothing from him

him, otherwise then by promise: God may do what he will with his own, and all is his own. But with man it is not so, either towards God or man, he stands in divers relations, and is tied in many duties, even towards men, before he covenant or swear, unto which single tie, the bonds of Oaths and expresse and solemne Covenants are often in weighty matters added, for confirmation and greater security. And thus it is in the point in hand, there is Allegiance due without the interposition of an Oath, or any such ingagement by particular persons; we are in a setled State, born Subjects,, and both claim the immunity and protection, and owe the duty of such without personall indenting, or Oath-taking; and this obedience is owing to Princes, or Magistrates without condition of Religion, or Justice on their part performed; the Scripture is clear for an irrespective (and in regard of the Rulers demeanor) absolute subjection, *Exod.*20.12.21,25. *Rom.* 13. 1, 2. &c. *Tit.*3.1. 1 *Pet.*2.13. 1 *Sam.*24.6,7. 26. 9,10,11. *Jer.*27.12. 29.7. *Mat.*22.21. And the Doctrine of Orthodox Divines generally is, that obedience is due to the most degenerate, tyrannicall and oppressive Magistrates[h]. When therefore this necessary and unconditionated duty (as to the parties behaviour) becomes the subject of an Oath or personall ingagement, it is not capable of capitulations or conditions to be performed by the persons sworn to, upon which the obligation of the Oath shall be dependent; to admit such qualifications, would fustrate the end of a promissary oath, which is to give assurance and security (and that the strongest men can give) to the party unto whom the oath is made, of what either was before, or is then made due by promise; instead whereof the inserting of conditions of this nature in this case would make what was before clearly owing now more dubious and uncertain to the expectation of the proprietor: and would be apt to beget in the debtor a perswasion (upon non-performance of conditions) of a discharge as well from the matter, as from the obligation of the Oath.

Alia enim ratio est obligationis ubi debitum fundatur impromissione ubi verò promissio fundatur in debito longè alia. D.Sand. de juram prælect. 6.Sect.9.

h Cal.Instit.l. 4.c.20.Sect.24 25. &c. P.Mart.loc. com.clas.4.ca. 20.§. 12.18. 19.Alsted. Theol.cas.cap. 17.Reg.8. numb.9. Schar.Symph. 5.cpoc.Quæst. 44.& 45. cur. Perk.cas. consci. B.3. cha.6.Sect.1.

4. Of Humane Covenants, or promissary Oaths, whereof the subject or matter is arbitrary, and we are not otherwise bound to them by Covenant or Oath, there are severall sorts i some are absolute, having no expresse condition annexed,

i Vide Alsted. Theol.cas.c.5. Reg.2.num.3.

but are simply undertaken, saving that those generall and constant Provisoes of every promise or oath which need not expressing, are to be understood therein, *viz.* that the thing when it comes to be performed be lawfull and possible, and notwithstanding the understanding of which the obligation is absolute. As for instance, such was that promise and oath of *Joseph* to his father *Jacob*, *Gen.*47.29,30,31,&c. and that of the children of Israel to each other, *Judg.*21.5. And that of *Jonathan* to *David*, 1 *Sam.*10.12.13. Others again are conditionall, wherein something future, that is contingent, or depending upon mans will is particularly, and expresly comprised as a qualification of the matter to be performed, the failing of which is a discharge of the person ingaging from the promise or oath. Such was that of the servant to *Abraham*, *Gen.*24.2,3,4, 8,9. And that of the Spies to *Rahab*, *Iosh.* 2.12. to 21. Now then for M. *G.* to say generally of all oaths and promises whatsoever, whether they be of things in their own nature necessary, or of things arbitrary; whether they be absolute, or conditionall; and to say specially of all promises and oaths of Allegiance, or subjection, and particularly of these oaths in question, that they are conditionall, and bind no longer, nor any otherwise then whilest, and as the party covenanted with, or sworne to, behave himselfe as he did at the time of covenanting, is both in it self, and by what is here said, as also by the ordinary practise of men in Indentures, and Oaths, apparently inconsistent, and absurd; and to infer such an universall loosening of men from Oaths and Covenants of what nature soever, upon the parties miscarriage to whom the ingagement is made, from the conditionality of some divine promise, is (besides the impiety of it above denoted) an insupportable *non sequitur*, and by M. *Gs.* sophistry never to be maintained; yet this is all the Logick of this Argument.

Having thus (I hope) sufficiently taken away the exceptions of this Author against the force of the Oath of Allegiance, I leave him straining and travelling about that stone of *Syssphus*, (to wit, the guilt of Royall blood) which he labours to roul away in that his book, and proceed to another.

The next I meet with, that strikes at the obligation of this

Oath

Oath, is one that asserteth himself to be of those whom he that I had last to do with, professeth himselfe a Champion against, that is, the Presbyterian part, but in this [as far as my pen will reach] he is alone for them: I mean the Author of *The lawfulnesse of obeying the present Government*, who in his 11 and 12. pages pleadeth against it with the Reasons which follow, being here set down by parcels, with my Answer to them so distinguisht.

1. *It were good* [saith he first] *to consider, whether there be any clause in any Oath or Covenant, which in a fair and common sense forbids obedience to the Commands of the present Government and Authority, much lesse when no other can be had, and so the Common-wealth must go to ruin.*

1. The many clauses of severall Oaths, and of the Covenant and Protestation, which strictly forbid such obedience, I have urged [Chap. 2.] whither I refer him.

2. But by his last sentence recited [*much lesse when no other*, &c.] together with his marginall quotation [of a Popish Schoolman or Casuist telling us, *When a thing sworn is too difficult, or he that swore is by the change of abilities or estate rendred lesse apt to perform: or lastly, when the thing sworn is an hindrance to the swearer from consulting the publike good, then there is a lawful cause of dispensing with the Oath*] he seems as if he would insinuate a cessation of the oath in our case, unto which I say,

1. Take dispensation in the usuall Popish acception, and all power of dispensing in Oaths and Vows, in whomsoever it be supposed to be, is denyed with one consent, [as far as I have observed, or ever heard] by Protestant Professors: and it is a meer Popish doctrine, and papall arrogation exploded from amongst us [a]. And this Oath hath it self precluded and cut off all use of this shift of a dispensation in these words: *I do believe, & in conscience am resolved, that neither the Pope, nor any other person whatsoever, hath power to absolve me of this Oath, or any part therof.* And this I the rather note, upon occasion of this Authors quoting a Doctor of the Papacy for the dispensability of an oath, in regard that some of late [if I mistake not] have taken upon them to discharge people from this Oath, or [which is all one] from the Allegiance therein sworn to. Unto which act I shall onely speak thus much, either they assume

[a] Vide D. Sander. de juram. oblig. prælect. 7. Sect. 3. & 4. They say, *In omni voto, aut juramento subintelligi debere illam conditionem si Domino Papa placuerit.*

power to do this as the party to whom the Oath is taken, or as a ſuperior, by the analogie of that Law, *Numb.*30.3,4. But, 1. They cannot do it as the party ſworn to in that Oath, for they are not that party in the Oath, the King, and his Heirs, and Succeſſors are the only perſons to whom, and in whoſe behalf the Oath is taken, and conſequently they onely that can releaſe from it as parties; nay they are the party ſwearring, and therefore far from a capacity of diſcharging others from that Oath, as preſently I ſhall ſhew. 2. Neither can they do it as a ſuperior by the equity of that law, *Numb.*30. For, 1. Their lawfull ſuperiority in the caſe they now ſtand, is the matter under quſtion. 2. The power of a ſuperiour to undo the Oath or bond of the inferior, prevails only in thoſe matters wherein the party is under the power of the ſuperior, and not in other matters, which are without the extent of the ſuperiors authority [b]. Now this Oath concerns a duty owing to another, which they that interpoſe to diſcharge from it have no right to diſpoſe of. 3. But however the ſuperior can only by the Law cited, or any other right come in to make void the Oath of the inferiour, which was taken without his knowledge and conſent, and that alſo he may only do in the day that he hears of it; but if he either allow the making of it, or declare not againſt it preſently, when he comes to know of it, he hath no power thenceforth to recall it, as is clear by the Text. Now the Oath of Allegiance was ſo far from being diſallowed, or declared againſt as ſoon as it was knowne, that it was enacted and injoyned by both Houſes of Parliament, and moreover it was conſtantly to be taken by all the Members of the Lower Houſe at their entrance into that Houſe; ſo that beſides their incompetency to diſcharge from the Oath who have aſſented to it; Let any man ſhew how they who are parties to the oath, and have themſelves taken it, can diſanull it; the obliged parties diſanulling is a ſtrain above papall diſpenſation.

b. Vide D. Sanderſ. de Juram oblig. prælect. 5. Sect. 5. & prælect. 7. Sect. 6. *Animadvertendum tamen eſt penes hos non eſſe facultatem reſcindendi quoalibet jusjurandum ſubditorum; ſed illud duntaxat, cujus materia eſt eorum poteſtati ſubjecta.* Alſted. Theol. Caſ. cap. 15. Reg. 2. num. 16

2. But to ſpeak to theſe cauſes of diſpenſing with an Oath according to the Caſuiſts Divinity, which the Author applyeth to the caſe in hand: *When the thing ſworn is too difficult, or the ſwearer is by the change of ability or eſtate, rendred leſſe apt to perform.* If by this difficulty of the thing, and unaptneſſe of the perſon ſworn, he mean, the thing is become impoſſible, and the

the party utterly unable to observe it. All reasonable men will grant so far as the impossibility lies, and so long as it continues the Oath binds not, but this is not to our Authors purpose, for to cease from an act, that is, from obedience to the present Government, can never be impossible *m*. But if he intend by difficulty and unaptnesse, that the thing sworn to wil bring hard terms upon the swearer, or breed him temporall losse, and trouble, this is no cause to infringe the tye of an Oath, or give a discharge from it; He that hath sworn to his own hurt, must not therefore change from it, *Psal.* 15.4.

m *Qui fecit quod in se fuit ut adimpleret quod promiserat juramenti fidem exolvit.* De Sanders. de juram. oblig prælect. 2. Sect. 10. *Obligatio tollitur quoad id solum quod est factu impossibile, quod reliquum verò manet, & qui non potest omne quod debet, debet tamen omne quod potest. Id. Sect.* 12. *Est regula juris rei impossibilis nulla est obligatio.*

2. *When the thing sworn is an impediment to the swearer from consulting to the publike good.*

1. If the thing sworn should become privative of, or opposite to the publike good, or well being of the Nation in its own nature, and necessarily, it were unlawfull, and consequently the oath would be void; for to a sinfull thing there can be no obligation. But if it be onely of that nature which they call impeditive of a greater good, that is, if it stand in the way [not of the good of the Kingdom simply, and absolutely respected, but onely] of some higher degree of good supposed to be attainable, this consideration will not bear that weight, as to frustrate an oath. As for example, when a people that hath sworne obedience to a lawfull forme of Government, which yet is not absolutely the best, as suppose to a Democracy or Aristocracy, or that hath sworn obedience to a lawfull Prince, who yet is not simply the ablest that can be found for regall parts and qualifications, such may not take themselves discharged from their oath, because there may be a better modell of Government, or a better qualified person to make a Prince found out, and for that cause cast off their present Government and King, and set up another because comparatively better. It was doubtlesse better for the people of Israel, that the Gibeonites had been deroyed, as the rest of the Canaanites were [if there had been no oath to the contrary] then that they were spared [besides that the sparing of them was against an expresse positive law, *Deut.* 20.16.] and so the congregation judged, and therefore grudged at the sparing of them: yet in that case the Oath for sparing them stood inviolable, *Josh.* 9.16. 18, 19. 2 *Sam.* 21. 1. 2, &c. It was in like sort

sort for the Kingdoms greater good; that *Zedekiah* and his people should be free from *Nebuchadnezzars* subjection, yet that was not a dissolution of that Kings Covenant & Oath, *Ezek.*17.12,13,&c.2. It will at no hand be granted, that to withhold obedience from a usurped Power is in it self impeditive of the publike good at all, I know inconveniences are by this Author urged to follow, if such a power be not obeyed; as that, *Else all Authority must fall to the ground, and so confusion* [*which is worse then titular tyranny*] *be admitted.* But all Authority hangs not upon the back of Usurpation, this may come down shortly again, and that recover it self, and stand upright. Present quietnesse and security are like to be but in a sickly state, obey, or obey not, & for justice, as there is none where every man is left to himself, so there is usually little to be had from the hands of an unjustly gotten power; Dominion being wont to be worn as it was come by n. An *Issachar*-like bowing down under the Common-wealths oppressions is not for publike good [neither were we told thus when the Parliament began to stand up, and awaken the people to shake off Expilation and oppression] the Orator wil tell us, *Servitude is the worst of Evils, and to be repelled as the charge not only of war, but death* o. Nay Religion will dictate to us in the words of the wisest earthly King, *That righteousness exalteth a Nation; &, the Throne is establisht by righteousnesse.* Under Usurpation then we can expect no settlement; and to submit to it, is to help to fasten that which is certain to fall, and to fall with the greater confraction, by how much it is more favoured. Commotion and tumultuousnesse is sure [in reason] to follow violent domination. Let Israels many and turbulent changes of their Kings [after their departure from the house of *David*] be a president for it, of whose Kings, for their speedy and fatall ends, it may be said, as it was of many of the Roman *Cesars*, that they rather seemed to be Kings in a Scene, or personated on the Stage, then reall Authorities. The standing off from obedience is but like to speed the Commotions, and make them easier. To perswade men to couch down under Usurpation, when it is gotten up to save troubles, is as if a man that is got into the briars should stick therein, because he may rake himself in offering to get out; [or he that hath a festered sore, or grown disease in his

n *Nec quisquã imperium flagitiis quæsitum bonis artibus exercuit.* Tacit.

o *Et nomen pacis dulce est, & ipsa res salutaris, sed inter pacem & servitutem plurimum interest; pax est tranquilla libertas, servitus malorum omnium postremum, non modo bello sed morte etiam repellendum.* Cicero in M. Anton Philip. 2.

Prov. 14. 34. 16. 12.

his body, should let it alone, and go on, because it will stir the humours, and cost him some pain to be cured.

2. The same Author proceeds, *And whether it* (to wit, any clause in any Oath or Covenant) *forbids obedience to the present Authority, more then to Laws that have been formerly enacted, by those which came into Authority meerly by power.* 1. You have not yet produced any former Princes that had any hand in the making of a Law, that came into the Regall Authority meerly by power; for although some of them got possession by the Sword, yet [to omit the alledging of other title] they were confirmed, by the Kingdoms consent in Parliament, before they concurred in enacting Laws for the Kingdome. 2. The Laws you reflect on were not meerly made by those Princes whom you pretend to have come in meerly by power, but were constituted by Parliamentary Enacting; And for any former Parliaments coming into the Authority meerly by force, you neither do nor can alledge any thing.

3. He urgeth further; *If it be said, that in the Oath of Allegiance, allegiance is sworn to the King, his heirs and successors, if his heirs be not his successors, how doth that Oath bind? Either the word successors must be superfluous, or it must bind to successors aswel as to heirs; & if it bind not to a successor, as wel as to an heir, how can it bind to an heir that is not a successor? & if you will know the common & usual sense (which should be the meaning of an Oath) of the word Successors, you need not so much ask of Lawyers and learned persons, as of men of ordinary knowledg, & demand of them who was the successor of W. the Conqueror, and see whether they will not say* W. Rufus, *and who succeeded* Richard the 3. *and whether they will not say* Hen. *the 7. and yet neither of them was heir: so in ordinary exception the word Successor is taken for him that actually succeeds in Government, and not for him that is actually excluded.*

This Author in these lines raiseth much dust, that it may serve him for a double end. 1. To obscure the genuine sense of this clause of the Oath, that it may not seem to make against him, as indeed it doth; and then to detort and wrest it, to the advantage of his Usurpers interest. 2. He would cast a mist upon the words of the Oath, to overcloud it's true sense, and this he attempts in the fore-cited Discourse untill you come to this mark ||: he endeavours it by placing an ambi-

guity

guity in the word [Succeſſors] and ſetting it at odds with the word [Heirs] whereas this clauſe of the oath is clear enough in it ſelf, add far enough from the uſe he would make of it; and firm enough to the ſenſe which he oppoſeth. Which that I may evince, I deſire the Reader to obſerve theſe two things.

1. That the Oath intends by Heirs, and Succeſſors, the ſame perſons which may evidently appear. 1. By the manifeſt drift of the Oath, and intention of the Authority that preſcribed it, which is the continuance and aſſurance of the Crown, (upon conceſſion of his then Majeſties juſt title) to his Heirs in ſucceſſion after him, and one another lineally, and the defence of them therein againſt all other corrivals or oppoſers; this I cannot ſee which way will be gainſaid; and being ſo, it will inforce us to grant the Oath, and Oath-giver could not mean by ſucceſſors any other then heirs. 2. In that the words [*Heirs and ſucceſſors*] are joyned by the copulative [*and,*] whereas if they ſhould have intended different parties, the diſcretive [*or*] ſhould, in true ſyntaxis have been put betwixt them. 3. In that his heirs and ſucceſſors are immediately in the Oath denoted by the ſame pronoune [*them,*] and again by the ſame poſſeſſive [*their*] in thoſe words, (*and him, and* [*them*] *wil defend to the uttermoſt of my power, againſt all conſpiracies and attempts whatſoever, which ſhal be made againſt his or* [*their*] *perſons* [*their*] *Crown or dignity*) but if they be not the ſame perſons, how come they to be thus particled together? eſpecially how can they immediatly after his Majeſty be inſtituted to the ſame Allegiance, and defence therein in relation to the ſame Crown and dignity; admit them divers, and the Oath will import a contradiction: and will any man imagine, ſo irrationall a thing as that authority hath ſo long impoſed, and the Kingdome, eſpecially the moſt intelligent perſons in it, have univerſally taken an oath ſo irreconcileable to it ſelf. 4. The Law of the Land (unto which this oath muſt needs be yeelded to be conſonant) ordains his Heirs to be his Succeſſors.

2. That the oath underſtands by Suceeſſors, thoſe onely that are ſo *de jure*, and not any others, that contrary to right may intrude into the royall Seat, and injuriouſly make themſelves ſucceſſors onely *de facto*. For, 1. In the oath we ſweare allegiance, and defence to Succeſſors: now what man of conſcience

ſcience would ever impoſe, or take an Oath of this nature to any (but in his intention) a juſt party, for to ſuch a one alone could he ſwear in righteouſneſſe according to *Jer.* 4. 2. 2. The Oath appropriates the Crowne and dignity to Succeſſors, as theirs, in theſe words [*their Crown and dignity*] now theirs, and their right are all one. 3. The Oaths of Allegiance and Supremacy muſt needs accord, and this may be the beſt Explanatory of that: now this, *viz.* the Oath of Supremacy prefixeth the word [*lawfull*] to Succeſſors, and confineth our allegiance to his lawfull Succeſſors in theſe words, The Kings highneſſe, his Heirs and lawfull Succeſſors: which Epithete will not permit the word Succeſſors, either in that or in the Oath of Allegiance (unleſſe yon will unreaſonably make them jarring) to be carried to any ſucceſſor but him that is ſuch of right. And this reaſon will alſo irrefragably confirm the former Propoſition, *viz.* that the Oath intends by Heirs and Succeſſors, the ſame perſons: for who are his lawfull Succeſſors? the Law will tell you, his Heirs.

By theſe Propoſitions (ſufficiently cleared I hop[illegible] may underſtand how the Oath (in that clauſe) binds, and that, 1. There is no ſuperfluity in the word *Succeſſors*; for an Identity in ſenſe of divers words is no vain Tautologie, many words ſignifying the ſame thing being ordinarily uſed (and eſpecially in Oaths, and ſuch like punctuall forms, and particularly in the Oaths of Allegiance, and Supremacy in divers other clauſes) for explication, and ſignificancies ſake. And though heirs and ſucceſſors in the clauſe in hand meane the ſame perſons, yet it may be in a divers conſideration, as thus: They are heirs in His Majeſties life-time, and ſucceſſors at his death reſpectively. 2. That the Oath binds neither to his heirs nor ſucceſſors disjunctively, or the one taken from the other, but to both conjunctively, as one: and taking ſucceſſors aright, that is, for lawfull ſucceſſors, we need not, cannot ſay that it binds either to a ſucceſſor, that is not an heir, or to an heire that is not a ſucceſſor, *viz. de jure*, though perhaps he may be prevented or delayed from actuall ſucceſſion, or rather poſſeſſion.

2. But this Author will have [*Succeſſors*] to ſignifie ſuch as are ſo *de facto*, and do actually ſucceed in Government; And

by this means this passage of the Oath shall make for the Usurper if he be in possession. I have said [I think] that which is enough to fore-stall this already, but let his Argument be heard, and receive a formall answer; it is in effect thus:

The common and ordinary acception of the word Successor, means him that actually succeeds in Government; but the word Successor in this Oath, must be understood in the common and ordinary acception: Ergo, *the word Successor in this Oath must mean him that actually succeeds in Government.*

1. I answer to the major by denying it, if taken universally; and if it be not, the Syllogisme is false: the major not being universall in the first figure. For although one common sense of the word successor, is he that actually succeeds whether by right or wrong, yet that's not the sole usuall acception of the word, and this I shall evince the same way that he goes about to prove his acception to be the common one; and in so doing, confute also his proof of his major, which is thus. *If you would know* [saith he] *the common sense of the word Successors, ask* [illegible] *such Lawyers and learned persons as men of ordinary knowledge, and demand of them who was* William *the Conquerors successor? they will say*, W. Rufus. *Who succeeded* Rich. the 3d. *they will say*, H. the 7th. *and yet neither of them was heir.* R. Although I yeeld not his rule to be the best [for if successor be a terme used in the Law, as it is in this Oath prescribed by Law, Lawyers and learned men in the Law, were there any obscurity would be the fittest interpreters of it; for it is a maxime, we must believe every one in his own faculty or Art P] yet I shall refer the matter to it, so the question may be rightly propounded, and as the case in hand will allow. This Author propounds it fallaciously, and unapplicably to the present purpose, in that he demands *de præterito*, and so as the question onely interrogates of an actuall successor [who was successor, or did succeed such a one?] and then the answer [whether made by men learned or unlearned] must needs bring in him that did succeed in fact. But let the question be put *de futuro*, and thus onely it is suitable to a promissary Oath which respecteth the future time, and a thing to be done in it; and consequently to this Oath which is promissory, and runs *de futuro*. *I shal bear faith and true Allegiance, and I wil defend*, &c. and

P *Credendum est cuilibet artifici in arte sua.*

and was taken of a ſucceſſor, not that had ſucceeded, but that was to ſucceed, and it will be this, *who is to be his Majeſties ſucceſſor*? and then let even the man of ordinary knowledge anſwer it, and ſee whether he will not ſay, not every one that can catch it, but he that hath right to the Crown. And by this fitting of the queſtion to the current of the Oath, and the reſolution that the thing it ſelf gives to it, as the proof of his Propoſition is taken off, ſo the contradictory to it is neceſſarily inferred, to wit, that the ſole, common and ordinary acception of the word Succeſſor, is not him that actually ſucceeds in Government. But if the word Succeſſor be capable of a divers acceptation, what obligation can there be to ſucceſſors in the Oath? *R.* Although Succeſſor in common uſage may be taken two wayes, to wit, either for a ſucceſſor in fact, or a ſucceſſor in right, yet in the Oath it can be taken but in the later ſenſe: For, 1. It is a rule for the finding out of the ſenſe of an Oath agreed on among Caſuiſts, that in Oaths injoyned or impoſed by others, we muſt conſtrue them in that ſenſe which is known, or may moſt probably be judged to be the preſcribers q; but his end in this Oath being the ſupport of his Crown in a lineall ſucceſſion from himſelf, according to his right ſetled by the Laws, his ſenſe intended by Succeſſors could only be, they that are ſuch *de jure*, and the ſame that are his heirs. 2. To take the word in the other ſenſe, *viz.* for Succeſſors *de facto*, how unjuſtly ſoever poſſeſſed, is inconſiſtent, 1. With the nature of an Oath, which muſt be taken in righteouſneſſe, *Jer.* 4. 2. that is, to oblige onely to that which is juſt. 2. With the word Heir, which being placed firſt in the Oath, muſt firſt be ſerved; and Succeſſer can onely be underſtood in congruity with it. 3. With the Oath of Supremacy, which bindeth us to the lawfull Succeſſors. 4. With the Law of the Land, which appointeth ſucceſſion to the Heir. 5. With a poſſibility of keeping the Oath, for if heirs and ſucceſſors mean divers perſons, how can the Oath of Allegiance, and defence of the Regall dignity be obſerved towards both?

q *Vide D. Sanderſ. de juram. oblig. prælect. 6. Sect. 9. Ant. Aſhcams* Diſcourſe 2. part. chap. 4.

Having vindicated this paſſage of the Oath of Allegiance from this Authors diſtoition, I cannot let him paſſe without a briefe animadverſion or two more. 1. Whileſt he contends about the ſenſe of Succeſſors, and would have it

understood of actuall succeeders, that it may favour the Usurpers, he forgets what is the object of that succession, *viz.* a Crown and regall dignity, wherein by vertue of that Oath those Successors are to be defended: whenas they whose power he pleads for, [and in whose behalf he undertook to answer this clause, as not forbidding obedience to them] have not only put by the rightful successor, but abolished the Crown and Regall dignity it self; unto what then would he have his meeenates to be successors? or how will he reconcile obedience to them with defence of the Crown and royall dignity? 2. It it is to be admired, that a person of so fair a character (as is given by the worthy Authors of the *Religious Demurrer*) should begin this Section of his with a generall deliberative, [*It were good to consider, whether there be any clause in any Oath or Covenant, which forbids obedience to the commands of the present Government,*] and yet take no notice of any thing in this or the other Oaths and Covenants, save of this clause only in this Oath, which it seems he thought he could not only loosen from obliging against him, but draw over to be accident to him, which how well he hath performed I leave the Reader to consider. And I further admire how (seeing he accounteth *Oaths sacred bonds, and reverend obligements*) he feared not to use such inforcement to the clear letter of so tender aud sacred a thing; for though any body can say a tyrant *sine titulo*, or a Usurper is a Successor *de facto* when he is in, yet that he is such a successor as the Oath intends, *viz.* one that we are sworn in Allegiance to, and are bound by that Oath to defend to the uttermost of our power, &c. Having withall (probably at the same time) sworn in the Oath of Supremacy Allegiance to the lawfull successors, and to our power to assist, and defend all Jurisdictions, Priviledges, &c. belonging to those successors, is a grosser interpretation, then I hope he himselfe will owne when he considers it, or any considering and conscientious men can receive. And I could wish he would consider, whether when he took the Oath he had this sense in his mind, or rather it be not newly excogitated, upon the coming into question of these late transactions; and how neerly this practise entrencheth up perjury [r].

[r] *Alterum perjurii genus est ubi rectè juraveris, non sincerè agere, sed novo aliquo excogitato commento juramenti vim (salvis tamen verbis) declinare & eludere.* D. Sanders. de Juram oblig. prælect. 6. sect. 7

4. But having said what he thinks fit to the clause, he will

have

have one glance at the urgers of it. *Yet withal this quære may be added, while the ſon is in the ſame poſture in which the father was, how comes this Oath at this time to ſtand up, & plead for diſobedience in regard of the ſon, that was aſleep, & ſilent in regard of the Father.*

1. They that plead this Oath for diſobedience, or rather denying obedience to the preſent power in regard of the Sons right, did the ſame in regard of the Father, when it was apparent, that not a meer defence of Religion and Liberties, and a recovery of the Kings perſonall preſence to the Parliament was the end of the war, but the Fathers death, and the Sons diſ-inheriting, with the deflowring of the Crown, and over-turning of the Throne it ſelf. VVitneſſe (amongſt other teſtimonies) what the *London*, *Eſſex*, *Lancaſhire*, and *Banbury* Miniſters have declared publikely in their reſpective writings, they are alike ſworn to, have according to their power and vocations, ſtood for the Authority of both, and not allowed the depoſition of either, or the uſurpation of their power by others: they have prayed againſt, bewailed, ſtood ſtonied at, witneſſed againſt the proceedings that have been againſt both of them: and to this day they lament that the clear VVord of the Lord, held forth by their teſtimonies, hath not prevailed for the prevention or retractation of thoſe direfull, and (the world throughout) ſcandalous courſes.

2. The Son cannot yet be in the ſame poſture his Father was in, whileſt an overture or propoſall for ſatisfaction hath not once be made to him, wherein he is in the view of the Kingdome more harſhly and extremely dealt with then even his Father was; and as his Fathers ſufferings as to life were without preſident, ſo are his as to ſucceſſion to the Crown.

Mr. *Aſham* (whom I had in hand before, Chap. 2.) hath divers ſtrange, and unapproveable paſſages reflecting upon the Oaths under debate; which I ſhall cull out as I meet with them in ſeverall places. In his 2. part, Chap. 8. ſect. 6. he laies downe foure caſes, wherein he ſaith, Subjects are freed from their ſworn Allegiance. His three firſt, (*viz.* 1. If a Prince abandon. 2. If he alienate. 3. If *Nero*-like through mad fury or folly, he ſeek in an hoſtile way the deſtruction of his whole Kingdom) will I preſume be taken not to concern our caſe in hand; the fourth poſſibly may be judged applicable to it,

which

which therefore I shall take notice of: and a brief animadversion will serve, he delivering it (as he doth other odd and unsound stuffe) with a pythagoricall magisteriousnesse, and without the assistance of reason to induce a perswasion to it in the Reader.

Fourthly, (saith he) *if the Prince have part of the supreme right, and the people the other part, then notwithstanding an Oath of Allegiance to him he may be opposed if he invade the other part of supreme right.* And a few lines after he affirms with *Grotius, he may lose his right by the Law of War.* And in the next Section he saith of all those four cases, and therefore of this, *That they shew how we are absolved in our own consciences from all Oath and Contract, when one party forfeits his conditions first.*

The defensive opposing of a Prince, invading his Compeers part by the party invaded where the Supreme right is so shared, (supposing the Oath of Allegiance to be cautioned according to that sharing) I shall not dispute, it being beside the present question; but his losing his right by the Law of War; and the Subjects absolution from Oath upon that his supposed forfeiture of conditions, I shall a little call into question. 1. He tells us (if we will take it upon his word) if the Prince invade the others right, he may lose his right by the Law of War. What the Law of War means (if diverse, or varying from Gods, and other humane Laws) I understand not, nor is it materiall; in discerning into the permanency, or cessation right, and of an oath concerning it, we are to have recourse to the Law of God, and nature; and if by these the Princes title, and Subjects oath remain firm, notwithstanding his invading the peoples right, the law of war like *Alexanders* Sword may violently cut in sunder, but it cannot unloose either the single tye of right, or the superadded of an oath. How should this forfeiture come? If any waies, by way of satisfaction for the trespasse upon the others right. But theological justice appoints not, that where one invadeth anothers right, the Invaders right should thereupon be cancelled; and that it may be lawfull for the invaded, upon that injury received, to invest himself therewith, and finally to alienate & dispossesse him of it. A liberty of defence it permitteth to the invaded in relation to his own right, and a prosecution of the Invader unto his

his full satisfaction for the wrong inferred by him, and for that end (if there be no other mean but was left to effect it) he invaded (if he have power of war) may lease the Invaders right unto a just recovery or restitution of his own; but that being compassed, and proportionable satisfaction for the trespasse being given or gained, the invaded party must sit downe therewith, and not extend his line over all his late invaders right. Every transgression towards man calls for satisfaction; and who so doth wrong, is bound to make reparation; and his right is responsible, or obnoxious so farr: but it is more then *summum jus* to carry this compensation to a totall and perpetuall translation of the Injurers possession to the injured; totall confiscation is too high a penalty to be set upon every encroachment. Look into the laws and rules of satisfaction in Scripture, as *Exod.* 22. 1, 2, &c. *Levit.* 6. 4, 5. 2 *Sam.* 12. 6. *Luk.* 19. 8. and it will appeare the deepest amounts but to a foure fold restitution of the damage. Nay look into that order [which comes home to our Case] concerning the Princes of Israel, who having formerly used oppression, violence, spoil, and exaction towards the people of God, are not therfore adjudged to be deprived of their whole inheritance [Office, and all] but are onely reduced to their own portion: *Ezek.* 45. 7, 8. 9. But because this Gentleman flies to the Law of War for this his extreme dealing with Princes, hear what a learned Judge and profound Statesman delivers, in the case, in relation to that very rule. It is the Lord *Verulam*, who [insisting on the justnesse of a war on the King of *Eng.* part with *Spain*, for the recovery of the *Palatinate*, although the *Paulsgrave* in whose behalf that war should be commenced, should be accounted to have made an unjust war in *Bohemia*, by means whereof he came to lose the *Palatinate*] resolves thus: *An offensive war is made, which is unjust to the Aggressor, the prosecution, and race of the war carrieth the Defendent to assail, and invade the ancient & indubitate patrimony of the first aggressor, which is now turned Defendent, shall he sit down, and not put himself in defence? or, if he be dispossest shal he not make a war for the recovery? No man is so poor of Judgment as wil affiom it.* This resolution he confirms with many instances worthy to be perused in the Author: and in the end with this Reason: *Wars are vindict: revenges reparations,*

Considerations touching war with Spain, written by the right honourable *Francis* Lord *Verulam* pag. 3, 4, 5, 6.

but

but revenges are not infinite, but according to the measure of the first wrong or damage. And within a few lines after he saith of the case he is arguing: *It is the more clear on our part, because the possession of Bohemia is setled with the Emperor. For, though is be true, that* Non datur compensatio injuriarum, *yet were there somewhat more colour to detain the Palatinate, as in the nature of a recovery in value, or compensation, if Bohemia had been lost, or were stil the stage of War.* According to the rule of Justice then, Yea even that of war, the peoples right being recovered, and satisfaction given or tendered for the securing of it for future, the late invasive Prince should enjoy his right again, and the oath that was given for the securing of it stands in force, and obligeth to it. And this may be further cleared, in that the Solemn League and Covenant was prescribed, and taken when the King was judged to be in the actual invasion of the peoples rights; when the people could not be reasonably required to swear the said Covenant in behalf of the Kings right, if such an invasion did forfeit it, and absolve the Subjects from their oaths to him; & if they did then swear, they cannot afterward plead an absolution from their oaths by vertue of that invasion. And if the late Kings actions could be a forfeiture of all rights, and dissolution of all oaths as to himselfe (which I cannot yeeld) yet how can either of them be said to be disannulled in relation to his Heir, upon whom the right legally descends, and unto whose title the Oaths were sworn. If it be said, he was partaker in the same actions, the *Religious Demurrer* will tell you, that the right and title to the Crown upon his Fathers death, doth quit him from all stain by the Laws of the Land.

2 part. pag. 8.

2. Whereas he would infer this absolution from all oaths *by the Princes forfeiture of his conditions first.* What conditions doth he mean? 1. If he understand any conditions to be in the Subjects Oaths which are to be fulfilled by the Prince, upon which terms the Subjects Oaths shall bind, he is besides the book, the Oaths of the people put no conditions upon the Prince, but are all absolute and irrespective, and run without if's, or and's; in like manner as the obligations of Subjects allegiance to their Soveraign is irrespective according to Divine Institution, as I have before (in this Chapt.) proved. If this

this Author fancy any ſuch conditions in the peoples Oaths, let him ſhew where they lie, and what they are. 2. If he mean conditions in the Kings Oaths of Government, they are alſo unconditioned, or not dependent on terms to be kept on the Subjects part: and as the Subjects miſcarriage is not a releaſement of the King from his oath of Government, ſo the Kings failing is no diſcharge of the Subject from his Oath: the validity or obligation of either cannot be ſaid to hang on the performance of the other; unleſſe it could be proved that each part ſwore with reſpect to the others obſervation of his duty and Oath, which neither the tenour of the Oaths, nor the ſubject matter of them will permit to be granted; nor hath this or any other Author that I have ſeen ſaid any thing to prove that.

3. If by conditions he mean the capitulations which the Kingdom may be ſuppoſed to have made with him at his Inſtallment in the Throne, upon the keeping or breaking whereof he ſhould enjoy or loſe his dignity; there are no ſuch capitulations made either with him perſonally, or with any of his predeceſſors to be alledged; they are inconſiſtent with the ſupreme power entruſted with him. The truth is, it is a weak errour, though ſomwhat apt to poſſeſſe the minds of unconſidering men, that in thoſe eſtates of life ordained of God for the help of man, wherein there is a mutuall relation, and anſwerable offices to be performed (as of Magiſtrate and Subject, parent and child, husband and wife, Maſter and ſervant (where there is a departure from duty on the one ſide, there is a ceſſation of the debt of duty on the other. If this were ſo, it were a frivolous thing for men, ſubject to corruption, to contract any relations: and there would be no place left for the exerciſe of gentſeneſſe, patience, charity, betwixt relatives, nor for the inferiors paſſive obedience in caſe of inno-

At ſi duo homines mutuò ſe obligent promiſſis diverſi generis, aut non eodem tempore, aut aliàs citra mutuum reſpectum: violata ab uno fides non liberat alterum obligatione; ſed uterque tenetur id ſervare quod ipſe juravit, etiamſi alter quod ſuarum erat partium non effecerit; exempli gratiâ, Rex aliquis ſimpliciter, & citra reſpectum ad fidelitatem ſubditorum jurat ſe regnum adminiſtratum juſtè & ſecundum leges: ſubditi alio tempore ſimpliciter & citra reſpectum ad Principis officium jurant ſe ei debitam fidelitatem & obedientiam præſtituros; utrique obligantur quod ſui eſt officii fideliter facere, & ſi defecerit altera pars à ſuo officio, ita ut neque Rex ſolutus ſit à ſuo juramento, ſi ſubditi debitum obſequium non præſtiterint; nec ſubditi ſuo, ſi Rex à juſtitiæ tramite deflexerit. D. Santerſ. de juram. oblig. prælect. 4. ſect. 8.

cency; but this is directly contradicted by that of the Apostle *Peter*, 1 *Pet.*2.18,19,20. and those rules of the Apostles, *Rom.* 12.17. 1 *Thes.*5.15. 1 *Pet.*3.9. There are indeed some particular cases wherein the beneficiall dutie of those relations is expirable, as is that of the married, in case of adultery; that of parents, when their children are rebellious unreclaimably; that of Magistrates towards a Subject capitally offensive. But such particulars are warranted by Scripture: otherwise, wherein God hath not given a discharge, man may not. Now let any case wherein the Subject is dis-ingaged by Divine warrant upon the Magistrates mis-administration, be produced and made out to extend to the point in hand, and it will be yeelded: but this is yet to be done. But I goe on to another passage of the Author.

In the same Chap. Sect.7. he hath these words. *Now I shall endeavour to shew how a man may take an Oath from an unjust invading party, contrary to those oaths which perhaps he took first from the just party, who possibly brake no conditions with him.* This his undertaking he prosecutes in Sect. 10. where he saith thus. *I conceive but two wayes of taking such opposite Oaths.* To take an Oath in contradiction of a former Oath, is so high a matter, that the way to it had need to be very clear; and it can be no way allowable save one, that is, when the former Oath ceaseth to oblige: Let us examine therefore whether his two wayes fall under this one. 1. *When it is in a thing wherein a man may justly presume that the right party for a time releases him his former oath or duty to him.* 1. The swearers presumption that the party sworn to, doth release him from his former Oath, unlesse he hath actually released him, and declared so to him, is unto him no dis-obligation; there can be no just presumption of such a releasment, without such an antecedent act of the same party; without it evidently appearing, it is but a groundlesse presumption, and highly impious: if it carry on to the taking of an opposite Oath, the consent of the party sworn to being not passed, or made known to him, this presumption is but the swearers own act, and his own act cannot discharge him; what is it that must be the ground of this presumption? The obliged parties perswasion of the equity or reasonablenesse of the thing? that's but his own judgment, the party he

he is bound to, may haply judge otherwise; however it is at the best but a probable, not a certain ground to conclude upon, that another doth a thing because it is just, and that the party thereupon consents to a release is but his own fiction, till he hath so expresst himself to him. This were an easie way of escaping out of any promissory oath to man, and would be ordinary if it would hold; for men would be apt to induce themselves to believe an expediency and justnesse of an absolution from the party, when their Oaths pinch them in the performance; but this presumption is but a superficiall device.

2. The party sworn (in the case in hand) standing upon his title, preventeth this presumption, and plainly declareth the contrary. 3. In the Solemn League and Covenant, the party sworn to (as before hath been manifested) is not the King, but the people of all ranks within the three Kingdoms entring into the same Covenant: and how can they be presumed to release one, whilest they hold themselves bound by it? 4. The Protestation of the 5. of May 1641. is a Vow; now Divines resolve, that though an Oath may be cancelled by the party to whom it is made, yet a Vow no man can remit, because it is made to God as the party, and no man hath to do in altering the right wherein we are bound to him. The things therefore concerning the Government included in that Vow, cannot so much as be pretended to be unlooſed by this way.

Dico relaxationem istam in juramentis, fœderibus, pactis, aliisque contractibus humanis locum habere, non item in votis: ratio discriminis est, quia vota Deo fiunt, ut parti; ab homine autem ea sola relaxari fas est quæ homini facta sunt. D. *Sand.* de jurament. oblig. Prælect. 7 sect. 8.

2. His other way he thus layes down. 'A man cannot by 'Oath be obliged further to any power, then to do his utmost, 'and the Oath is to be understood conditionally, if the action 'or passion may be for that Powers advantage. In an army each 'man being obliged by Oath to lose his life for the Prince, ra'ther then turn back, or avoid any danger, this army having 'done its utmost, is beaten, and now the souldiers can do no 'more for their Prince then die, in these straights therefore it is 'not repugnant to their Oath to ask quarter, or a new life, and 'having taken it they are bound in a new and just obligation 'of fidelity to those whom they were bound to kill few hours 'before. They who live under the full power of the unjust par'ty, must be found to take quarter, and so be in the same condition 'with the former, and so have the liberty to oblige themselves 'to that which the Prince now cannot but expect from them,

viz. to swear to those under whose power they live, that they will not attempt any thing against them. All that this amounts to is, it is *prater, non contra primum juramentum*; & as the condition which is the ground of this promissory Oath, is such, that it is impossible for a man in it to advance his parties cause, so it is impossible for him to be bound to an impossibility. Here is much strength of confidence in asserting, but none of reason to warrant & prove what is here intended to be concluded. That a souldier or Subject being sworn to serve his Prince to the utmost of his power, may ask and take quarter, and passively submit to a captivating Enemy, when he is fully under his power, I shall not call into question; his Oath binding him to do what he can for his Soveraign, forbids him not to yeeld when he can do no longer; and for him to suffer death, or harder usage by contesting with his enemy, when he lies at his mercy, as his Oath binds not to it, so it is for his Princes disadvantage, there being yet hope that his life may be reserved, and his liberty recovered, for his Princes further service according to his Oath, in regard whereof he is rather in that case bound to ask and take quarter, then bound out from it: but what of all this? will it thence follow, *That the souldier or Subject thus brought under an adverse party to his Prince, oweth fidelity, and may oblige himself by Oath to that party not to attempt against him?* If his Allegiance and Oath were expired, there were some probable way for it; but here is little said, or can be said for that. Let us particularly examin, what this man alledgeth.

1. He hath done what he could, and the Oath bound him to no more. R. He hath done what he could hitherto, and so far hath kept his Oath; but if the Oath was (as the Oaths in the case under debate are) not limited to that particular design or battel, wherein the Prince hath the worse, and his sworn followers are fallen into the unjust parties hands; but to endure whilest life lasts, and the Prince hath any service for him, he hath not done what possibly he may yet do, nor hath he satisfied his Oath, so that it can demand no more of him.

2. *He hath a new life given him of his conquering Enemy, and thence becomes bound to him.* This is but a rhetoricall flourish, or complement, and hath no Logick in it; his life is the same it was, and therefore the man is still under the same obligation

tion of his duty and Oath which he was before under. If this Author can prove his life to be really another, I will grant an evacuation of all his former contracted obligations. And in truth alehough the cuſtome of VVar calls an Enemies ſparing of the life of a worſted perſon, Mercy, yet if that perſons cauſe were good, though he hath found bad ſucceſſe, he hath not forfeited his life to his prevailing Enemy, neither is he beholding or in debt to him for it, no more then a true man oweth his life to thoſe theeves that only rob him; or a weak man is indebted for his life to a ſtrong man, becauſe he kills him not. 3. *This is beſides, and not againſt the former Oath.* 1. If it be not againſt it, you are beſides your undertaking, and prevaricate it, for you promiſed to ſhew how a man might take an Oath contrary to his former oaths. 2. But it is plainly againſt the former, for to ſwear to do the utmoſt that can be for the Prince, and to ſwear not to attempt any thing againſt that Princes Enemy which hath diſpoſſeſt him of his right, can be no other then contraries. 4. *It is impoſſible for him to be bound to an impoſſibility*, and it is now impoſſible for him to advance his parties cauſe. That which is in it ſelf, or in its own nature impoſſible, an Oath cannot bind to, but that which is in it ſelf probable, and therefore promiſed under an Oath, may by accident, or by the interpoſition of ſome caſual impediment become impoſſible: this is very ordinary, and this kind of impoſſibility doth not diſſolve an Oath, but only ſuſpends it for the time, untill the preſent impediment be removed: ſo that though the Oath bind not to the *hic* and *nunc* of the accidentall impoſſibility, yet it ſtands in force ſtill, and obligeth to the thing as it is in it ſelf poſſible, and may (the obſtacle being removed) be hereafter feaſible. 2. Whileſt it is impoſſible for him to advance his parties cauſe, it is a frivolous thing for him to ſweare that he will attempt nothing for his party againſt the enemy, for ſo he onely ſweares not to attempt

Sed rei impoſſibilis ex accidente tantum aliquantum diverſa eſt ratio. Ut ſi quis juratus ſolvere centum infra menſem, quod non eſt per ſe impoſſibile, caſu aliquo inopinato interim impediatur, ut non poſſit tantam pecuniæ ſummam tempore præfinito conficere: etſi non obligetur in foro conſcientiæ ad faciendum quod promiſit, ſcil. ad ſolvendum totum debitum debito tempore, quod iam redditum eſt ei impoſſibile; obligatur tamen ad faciendum quod in ſe eſt, viz. ad ſolvendum quantum poteſt, & quàm citò poteſt. Ratio utriuſque eſt quia cum in hoc caſu ſola impoſſibilitas impediat obligationem, obligatio tollitur quoad id ſolum quod eſt facto impoſſibile, quoad reliquum verò manet, & qui non poteſt omne quod debet, debet tamen omne quod poteſt. D. Sanderſ. de Iur. oblig. prælect. 2 Sect. 12.

attempt an impossibility; and when this impossibility ceaseth, the former Oath to his Prince taketh place: so that this objected impossibility can be no warrant for such a later Oath.

Our Authour in his Chap. 9. Sect. 3. thus opposeth the obligation of the Oaths: *God saith, by me Princes reign: the governing Powers which are, are of God. God hath declared that he will chastise, and change Princes and Governours; and when we see the changes and chastisements, we may be sure they are by Gods order, yea, though the invading or succeeding Governors be like* Jehu, Nebuchadnezzar, *or those who by cruelty shew us nothing but Gods wrath. Wherefore it can be no lesse then sin in us, or treason against God, to swear we will never obey any but this or that Prince, or State, or any but of such a Family: for this depends on Gods Providence and Justice, which sets bounds to the duration of Governors and Governments.* 1. It is certain that all the Kings and Potentates of the Earth are set up & pulled down by God, and every change of Governours, even the advancement of those who are heavy scourges to the people, is in a sense by and from him; and it is as certain, that some Princes in some sense are not of God, as is clear enough, *Hos.* 8.4. We must therefore distinguish thus. 1. A thing is said to be of God, in that it was fore-seen and pre-ordained of him before it came to passe, and falleth out by his providence and disposall. And thus every act or event is by him, whether it be right or wrong, agreeable or repugnant to his revealed will or Commandement, 2 *Chron.* 25.20. 2 *Sam.* 24.1. So are all thefts, robberies, oppressions, murthers, violent dispossessions and occupations. Thus even Antichrists power that is derived to him by the devill is yet given him of God, *Rev.* 13.5,16,17. And so was *Pilates* power to crucifie Christ: *Joh.* 19.10,11. 2. To be of God, importeth the thing to be enjoyned, warranted or approved by his word or revealed will; and thus *Gamaliel* useth the terms, when he speaks hypothetically of the Apostles preaching and working miracles. *If it be of God*, in opposition to that which is of men, although in the former acception nothing is of men, but it is of God also. *Act.* 5.38,39. Now to discern what is of God, so as to impose upon us, we must not go to his secret will or providence, many things come about to us that way, which we are not bound to embrace and acquiesce in; but may, yea ought to use remedy against

againſt, and ſtrive to avert or remove; ſuch as are tentations to ſin, diſeaſes of the body, captivity, oppreſſion, diſhonour, defamation, and ſuch like. Theſe evills, albeit we are patiently and ſubmiſſively to bear them for the preſent, as they come from Gods correcting hand, when they are come to paſſe; yet we are allowed and required to ſeek the preventing of them when threatned, and the removall of them when befallen; Unjuſtly advanced Magiſtrates are of this nature: A paſſive ſubmiſſion under whom as a divine caſtigation, whileſt we can find no redreſſe, is expedient: but an imbracement of them (as thoſe that are authorized and warranted by God) active obedience to them, and maintenance or ſupport of them, (which is the matter in queſtion) cannot upon this ground be inferred as neceſſary, to do evill, becauſe it is in the power of our hand by providence, or to perſwade others, or our ſelves to ſit down under intolerable wrongs, becauſe they are come to paſſe that way, is an ungodly and fooliſh conſtruction of Divine Providence, and of a late invention in theſe every way erring times.

2. This Author in urging obedience upon this account, not only croſſeth Scripture and reaſon, but contradicteth himſelf in what he ſaith elſewhere: for the making good of this I ſhall onely preſent the Reader with his owne words, p.79. *God many times finding ſome Nations groſſely peccant, and obnoxious to his ſevere juſtice, inſtead of deſtroying, gives them up as a prey to another Crown; thus were the ſeven Nations, and afterwards Iſrael it ſelf was thus in the hands of* Nebuchadnezzar: *which particular caſe is not a generall argument, or conſequence (as ſome argue it) for the manner of Government, or latitude of ſubjection in all Kingdoms.* And p.98. he ſpeaking of Antichriſts dominion, ſaith, *There is one kind of uſurpation which by no poſſeſſion or preſcription can ever become lawful; and a Chriſtian can never ſubmit himſelf to it, without wounding his conſcience and faith.* And yet let this man ſay if this power of Antichriſt be not of God, and by his providence in the ſenſe wherein his Argument runs. 3. Who ever ſaid that men might ſwear they will never obey any but this or that Prince, State or Family? or whoever knew it required or done? All Oaths, and particularly thoſe of obedience, carry ſtill in them a caution of poſſibility, and when the

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matter becomes in it self impossible, the Oath ceaseth, and is void: We therefore swear to obey Princes and States whilest it pleaseth God to continue them to us: and this tye a present interruption of Government (though to an Invaders full possession) cannot dissolve: the oath and allegiance of Israel contracted with *David*, 1 *Chron.* 11.4. continued till his death, though *Absalon* rose up against him, drew all Israel after himself, and drave him out of the Land, 2 *Sam.* 19. 9. But when a Prince or Family is irrecoverably lost to a Kingdome, the Oath expireth.

Chap. V.

The Reasons brought for obedience to the Usurpers, answered.

THe next, and last part of my work, is to answer those Arguments that I have met with, which are brought for the obedience which I have disallowed in the 2. and 3. Chapters: the book entitled, *The lawfullnesse of obeying the present Government*, saith the most for such obedience of any that I know, it therefore I shall chiefly deal with.

1. *Argument.* First, his first and main argument is taken from that of the Apostle, *Rom.* 13. 1. &c. from this text his Argument set in frame is this: *If the Apostle commands submission and obedience, and that for conscience sake, unto those in his time that came unlawfully into their power and authority, then obedience to such may be now lawfull. But the Apostle commands submission and obedience, and that for conscience sake, unto those that in his time came unlawfully into their power and Authority. Ergo.* The major will not be stood upon. The minor is to be denied; And for his full confutation therein, and vindication of the Apostle in this text, I shall 1. by way of *Elenchus* make good the contradictory to this Proposition. 2. Answer what he brings for the maintenance of it.

1. Then I am to clear this contradictory to his minor, *viz. That the Apostle in commanding obedience to the higher powers, can only be understood of such as possesse their Authority lawfully, or have a just title or regular calling thereunto*: and this I shall undertake to do out of the Apostles own words, or by the characters he gives of the Powers he would have obeyed.

1. There

1. There is (ſaith the Apoſtle) no power but of God.

1. To be of God here, muſt import not meerly a permiſſive counſell, or providence, but a divine approbation, authorization and vocation; they are ſaid to be of God thus, that come in by Gods way, or are called to their places as God hath appointed in his Word; and that, not the former onely, but this ſtricter ſenſe of being of God muſt be here taken, appears thus. 1. Otherwiſe the Apoſtle had ſaid no more for Magiſtrates in this Character, then the Scripture ſaith of plagues, famines, and other judgements *, yea, of the ſinnes of men, which in the firſt and larger ſenſe are ſaid to be of God, 2 *Sam.* 24. 1. 2 *Chron.* 25.20. 2. A derivation of them from God in regard of providence meerly, could be no argument for obedience, non-reſiſtance to them, and maintenance of them; for we are not to ſubject our ſelves to, ſupport, and refraine from reſiſting a thing meerly upon this ground, becauſe it comes by providence; then a forraign Enemy that invades us, or a robbery muſt be ſubmitted unto, and may not be reſiſted; the plague, or other ſickneſſes in the body, nay the outward temptations to ſinne might not be prevented or removed, for all theſe come by providence. But the Apoſtle alledgeth *their being of God* here, as an argument for ſubjection to, non-reſiſtance, and maintenance of them.

* *Fanatici dicunt proteſtates omnes ſic a Deo eſſe, ſicut peſtes, morbi, & pœnæ a Deo ſunt.* Pareus in loc.

2. By *Powers* in this place, this Author tels us, *he means not meerly power or authority abſtracted from perſons, but perſons cloathed with that Authority.* Now that perſons cloathed with Authority may be ſaid to be of God, there muſt be not only Gods inſtitution of the office, or Magiſtracy in the abſtract, for the meer ordaining of the office, makes not this or that man a Magiſtrate more then another, but alſo his ordering of the perſons to the office, but they that are thus ordered of God (*viz.* not providentially alone, but by way of vocation, approbation, and authorization, as it is above proved, the ſenſe of the words [*of God*] muſt import) to the Magiſtrates place, muſt needs be granted to be lawfully poſſeſt of it, or to have to it a juſt title. This univerſall negative therefore of the Apoſtle, *There is no power but of God*, muſt not be taken in the ſimply univerſall ſenſe, as if there were no other power in the world but ſuch, but as a reſtrained univerſall, to wit, *There is no lawfull power but of*

God: and ſo alone can I conceive it conſiſtable with that of
Hoſea 8. 4. the Prophet, *They have ſet up Kings, but not by me; they have made Princes, and I knew it not.* Theſe two ſayings of the holy Ghoſt muſt needs be true, and therefore muſt not be contradictories; which they are not, if you take them uttered in a divers reſpect, the former of a lawfull, the latter of an illegall magiſtracy.

2. The *powers* here are ſaid *to be ordained of God:* and ver. 2. *to be the Ordinance of God:* that is, not by his decree, or handy-
Jude 4. work meerly, *as ungodly men are ſaid to be ordained to condemna-*
Jer. 33. 25. *tion:* and the being and poſture of *heaven and earth are ſaid to be Gods Ordinances,* but by his word or written ſanction, a perſon in this acception is to be tearmed Gods Ordinance, that is, by divine rule put into a place, or ſtate; thoſe Magiſtrates then only can be ſaid to be ordained of God and his Ordinance, that (for the ſubſtance at leaſt) enter by the door that he hath made, or the means and manner he hath preſcribed. The ſons of *Aaron* in their prieſthood, and the Levites in their miniſtery were Gods Ordinance, inaſmuch as they were ordained according
Lev. 8. Numb. 8. to Gods appointment. Whereas *Korah* and his company though they officiated as Prieſts, yet they were not ſo, becauſe they wanted that ordination. A man and a woman are by Gods Ordinance husband and wife, who are eſpouſed together according to divine rule, and not they who only perform the acts of ſuch one to another. In like manner, not whoſoever can get into the Seat of Authority by any meanes, are Gods ordained, but they who come in according to Gods preſcript and regulation. *Abſolom* and *Adonijah*, though they got into the Kingdom of *Iſrael*, were not Gods Ordinance; but *David* and *Solomon*, whoſe places they uſurped, were, theſe being put into the place by Gods direction.

3. *The power here may not be reſiſted under paine of damnation:* verſe 2. But 1. An uſurped Power, or they that get men under their command by force without right, may be reſiſted, and
Gen. 14. ſubdued. *Abraham* and his confederates juſtly took up Armes, and by them reſcued *Lot*, and the Sodomites from *Chederlaomer*, and his participants. The Judges and Tribes of Iſrael righteouſly warred againſt, and vanquiſhed the Nations that ſucceſſively obtained and exerciſed dominion over them, in the

the booke of *Judges*: so did *Samuel* and *Saul* against the Philistines, that were for a time their masters, 1 *Sam.* So did *David*, whilest he was King in *Hebron*, with the House of *Judah*, against *Ishbosheth*, *Abner*, and all *Israel*: so did *David* and his Men against *Absolom* and the people that followed him: so did *Jehojadah* in the right of *Joash* against *Athalia*. Lastly, thus did the *Maccabees* against *Antiochus* and his race; Which examples I but mention, having urged the most of them before *. And indeed to imagine the Apostle here to tie men conscientiously and under paine of Damnation to obey, and sit downe without any reluctancy under, yea, to maintaine, assist, and fight for them, who doe by force, without any right at all, usurp Authority over them, though they were Turkes, Thieves, Irish Rebels, Papists, or whoever, the worst of men, and cruellest of Tyrants, and though the Sufferers should come to have strength in their hands to relieve themselves, is an imposition (I thinke) beyond the thoughts of any sober minde, and that which none but they of the Anabaptisticall spirit will advisedly owne, and them also we may rather finde saying than doing so; the proceedings of the Parliament, yea, of all parties on both sides in the late Warre disclaime this doctrine; yea, the Army it selfe may be judge in this matter, who must either condemne this sense, or all their owne warlike actions: This would make the Apostle not onely to put an insupportable passiveneſſe upon people, but to discourage just Magistracy, if opposed, and grown weake, whereas his manifest scope is to uphold it. 2. They that come in by meere force, with expulsion of the just Magistrate, have apparently committed this crime of resisting the Power, that is, the Ordinance of God, and so have incurred the sentence of Damnation or condemnation (which may be understood of Punishment by Men) and it's a strange conceit to thinke, that the Apostle doth here at once both condemne their act, and confirme their authority gotten by it, and that the same Persons should by the same meanes be both the Resisters that are ἀντιτασσόμενοι, or set in an opposite order to that Ordinance, and condemned for it, and the Power and Ordinance it selfe that is to be obeyed, and not resisted. 3. If they that come in by force against the just Magistrate are the Resisters of the Power here to be submitted unto, then those that

2 Sam. 2. 8, 9. &c. 3. 1.
2 Sam. 18.
2 Kings 11.

* *Tyrannũ absque titulo qui est invasor, quilibet privatus potest, debet, è medio tollere, neq; cuim ille Rex est, sed privata persona,* Alsted. Theol. Cas. cap. 17. Reg. 8.

ſhall obey thoſe Reſiſters in the full latitude of obedience here enjoyned (which comprehends aſſiſtance and maintenance of them) doe become therein Reſiſters of the ſaid juſt Power alſo: ſo that obedience to the Uſurpers is rather forbidden, than taught in this Text.

4. The Power here to be obeyed, is *the Miniſter of God to thee, a Revenger to execute wrath*, &c. *v.*4. 1. No man can be called a Miniſter of God, but he that is called of God to that ſervice, wherein he is his Miniſter, not onely the Office muſt be authorized, but the Perſon muſt be inveſted with it by God; there muſt be ſome act of God, either immediatly or mediatly put forth towards the perſon, or this relation to him of being his Miniſter cannot be founded; now whoſoever is the ſubject of ſuch a divine act or vocation, hath without controverſie a juſt title to Magiſtracy. 2. He that is a Revenger to execute wrath under and for God (that is, not by providence onely, as Thieves, Robbers, and forraigne Invaders are, but by place and calling) not for deſtruction, but for good, he muſt receive a warrant from God for it; vengeance is Gods alone, by property, ſo that none can take it in hand but by deputation from him: others whatever power they have to doe it, are expreſly prohibited to be Avengers, immediatly before this Text, *c.*12.17. Now he that receives a warrant from God for it, is lawfully impowered.

But every one of the Characters affixed by the Apoſtle, to the Magiſtracy ſpoken of in this Text, it muſt needs be evinced, *That the Apoſtle in commanding obedience to the higher Powers, can onely be underſtood of ſuch as poſſeſſe their Authority lawfully, or have a juſt title thereunto*; and this is the contradictory to his *minor*, which I undertooke to make good.

2. I come in the ſecond place to give Anſwer to what he urgeth for the proof of his *minor*, which may be gathered up thus, *The Roman Emperours*, Claudius *and* Nero, *came unlawfully into their Power or Authority.* But the Apoſtle commands *ſubmiſſion and obedience to them.* Ergo.

In this Syllogiſme both his premiſes are peccant, and may be denyed. 1. For the *minor* the Apoſtle ſpeakes in the generall of *Powers*, without particular application to the *Roman*, or any other *; the carrying of them to the Roman Emperours

* *Non de hoc vel illo principe loquitur, ſed de ipſa re*, Chryſoſt. apud Pareum in loc.

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is the Authours owne. If he ſhall ſay, he may ſafely argue *à theſi, ad hypotheſin*, or from the generall to the particular, 'tis true, if he hold to ſuch *hypotheſes*, or particulars as are contained under the *theſis* or generall: but it is not granted to him, that the Apoſtle in this Text ſpeaks illimitedly, and without exception of all men, that by any meanes may get power into their hands; but on the contrary it is ſtood upon, that he intends his precept onely of lawfully-called Magiſtrates (the which I have above proved) he cannot therfore include under the Apoſtles genera l; them whom he ſuppoſeth to have unlawfully got into their power, this were *tranſire à genere in genus*, or to argue *à dicto ſecundũ quid ad dictũ ſimpliciter*. Neither can he be allowed to argue after that manner here, ſeeing he hath begun his Argument *ab hypotheſi, ad theſin*, or from the particular to the generall, for this were to walke in a round, and to prove this by that, and that by this circularly. As for that which he hinteth on, as if he would prove the *minor* by it, *viz: this Epiſtle was written in the time of* Claudius *or* Nero, it hath no ſhadow of proof in it; for they were not the only *powers* then in being; there were others even among the Romanes as well as they, himſelfe nameth the Conſuls and Senate, and thoſe to whom the power of right belonged, and they were then exiſtent, and in ſome poſſeſſion and uſe of the power: although the Emperours ruled with them, & in ſome things over-ruled them, as they were haply in other things ruled by them *; there being a kind of mixture of power, and alternateneſs of prevalency betwixt them. Now that the Emperors were then in place (whereas others alſo were in power) is no more a proof that the Apoſtle commands obedience to the Emperours, then the being of falſe Apoſtles, and Miniſters among the Churches, when the Apoſtle wrote to Chriſtians *to obey and follow them that had the rule over them*, proves that he commanded them obedience to thoſe falſe Apoſtles and Miniſters.

* *Quintiam ſpeciem quandã libertatis induxit, conſervatis ſenatui & Magiſtratibus, et majeſtate priſtinâ & potcſtate: neque tam parvum quidquam, neque tam magnũ publici privatiq; negotii fuit, de quo non ad P.C. referretur*, &c. Vide Sueton. Tiber. c.30,31,32. Heb.13.7.17.

2. The *major* Propoſition *(That the Emperours* Claudius *and* Nero *came unlawfully into their Authority)* muſt alſo be denyed: taking [*unlawfully*] in the ſenſe of the queſtion, or caſe in hand, that is, in regard of title: for, although the tumultuouſneſſe of the Souldiers, and the craft of the perſons intereſted,

were ingredients in the manner of their entrance, yet they were not the basis of their claime, or ground-worke of their title: but they had, or came to have, before this precept of the Apostle could intervene, sufficient challenge thereto, otherwise; wee must therefore distinguish betwixt an errour, or unlawfulnesse in the way, or manner of a Princes coming in, or obtaining possession of the Throne, and an unlawfulnesse in regard of Title, or of that which is of the substance or essence of his calling to that Place. The former is that which can onely be objected against these two Emperours; the latter is the unlawfulnesse in the case, or question, *viz:* when the Rulers hold meerly by usurpation, or have no other colour of claime but force, or other intrusion: and to argue from the former to the latter, is plainly fallacious, being *à dicto secundum quid, ad dictum simpliciter.* But let us heare what unlawfulnesse the Authour urgeth against the Emperours, and see whether it be not short of that which is under debate, *multis parasangis.*

The Consuls and Senate (he saith) *anciently had the chief power of Government, these at the death of* C. Caligula *entred into a consultation how they might restore the Common-wealth to her antient freedome, which by the* Cæsars *had been taken from them:* Claudius *in the interim is proclaimed Emperour by the Souldiers, and takes it upon him:* Nero *his Successour was also first saluted Emperour by the Souldiers:* Britanicus, *who was* Claudius *his Sonne, being kept in by the cunning of* Nero's *Mother.*

Unto all this the Answer is easie: Notwithstanding all these disorderly proceedings, these two had a Title (for substance) sound and good enough to the rule they bare: take for this a short narration out of History.

The Romane State was often changed, and received many formes of Government successively †, the *Beast* in the *Apocalyps* wherein the great *Whore* sitteth, is by the current of Expositors understood to be the City or State of *Rome:* and his seven heads are construed to be seven formes of Regiment that have been in it, *viz:* Kings, Consuls, Tribunes, Decemviri, Dictators, Emperours, and Popes*. If Antiquity must decide which of these Governments had the best title to be over the Romanes, it will give it to the *Cæsars*, for the Kingly (from which that of Emperours essentially differs not) was the first

† Tacit. Annal. lib. 1. c. 1.

* *Brightman, Mede, Symonds, Napier. Forbs* on Apoc. 17.

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in time among them (g). If poſſeſſion muſt determine it, the Emperours were at this preſent in the Throne, and had been for a conſiderable time, for four of them had reigned in ſucceſſion to one another before *Claudius* came in. If the conſent and conſtitution of the people (which is the trueſt groundwork) muſt carry it, the Emperours alſo were ſupported with this title, both originally, as to the forme of Policy, at the firſt ſetting up of Kings, in the infancy of this State, and perſonally at their reſpective commings in. By what means this conſent was gained from the people, it is not neceſſary to inſiſt, it were eaſie to prove, that if there were any unworthy carriage in it, it was as much at leaſt on the ſubmitters as on the *Cæſars* part. * *Julius Cæſar* (the firſt of them) had a concurrent agreement of the State which was (for ſubſtance) valid enough (h); ſo had *Auguſtus* after him (i); the ſame had *Tiberius* his next ſucceſſour (k). *Caligula* the next to him had the cheerfulleſt and moſt affectionate aſſent that ever Prince had (l). By this time the Government of the *Cæſars* had by theſe reiterated acts of conſent, eſtabliſhment from the people ſufficient to give it a juſt Title, and free it from Uſurpation; The next that followed was *Claudius*, who was left by *Tiberius* joynt Heir with *Caligula* (m), but was put by for the time by the exceſſive love which the people bare unto *Caligula* (n); after whoſe death, the Conſuls, Senate, and City Regiments talked indeed of ſtanding up for a publick liberty. But *Claudius* being ſaluted Emperour by ſome of the Watch, and the cry of the City Souldiers being at length that one ſhould have the rule; the Conſuls and Senate perceiving the Souldiers bent that way, and thereupon fearing a combuſtion, and ſuſpecting their owne inability to make good their deſigne, they being divided alſo among themſelves, and other Competitors for the Empire beginning to ſtart up,

(g) *Urbem Romam a principio Reges habuere.* Tacit. Annal. l. 1. c. 1.

* Vide Tacit. Annal. 1. c. 1, 2.

(h) *Tum vero abſens Romæ Dictator creatus pacisque & belli dominus.* Cluver. Hiſtor. mundi. lib. 7. pag. 236. Vide Chronic. Carion. lib. 2. pag. 180, 181. *Muneribus, monumentis, congiariis, epulis multitudinem imperitam lenicrat: ſuos præmiis, adverſarios clementiæ ſpecie devinxerat,*

Quid multa? attulerat jam liberæ civitati, partim metu, partim patientia conſuetudinem ſervicndi. Cicero in N. Anton. Philip. 20. Orat. 44. (i) *Cæſari quia arma ſumpſerat Reip. pro Pop. Romano imperium à Senatu datum, cum Conſularibus ornamentis.* Cluveri Hiſtor. lib. 7. pag. 240. (k) *Scx Pompeius, & Scx. Apuleius Coſſ. primum verbi Tiberii Cæſaris juravere; apudque eos Scius Strabo, & C. Turranius: mox Senatus mileſque & populus.* Tacit. Annal. l. 1. c. 2. *Vide* Sueton. in Tiber. c. 24. (l) *Sic imperium adeptus, populum Romanum, vel ut ita dicam, hominum genus voti compotem fecit, exoptatiſſimus Princeps, &c. Vide* Sueton. in Caligula. c. 13, 14. (m) *Vide* Sueton. in Tiber. c. 76. (n) *Vide* eundum in Calig c. 14.

and

and *Agrippa* the King of the Jewes, ſtrongly counſelling and perſwading them to it, they withered and ſhrunk in with their undertaking, and at laſt accepted of *Claudius* (o); as for *Nero* who came in next, *Britanicus* indeed was nearer to the Empire in ſucceſſion then he, but *Agrippina*, mother to *Nero* had prevailed with her husband *Claudius* to adopt *Nero*, and prefer him before his owne Sonne *Britanicus*; which he did with the Senates conſent (p): *Nero* accordingly ſucceeded him, and had the conſent of the State at his inauguration, without any reluctancy (q).

(o) *Verum poſtero die Senatu ſegniore in exequendis conatibus, per tædium, ac diſſentionem diverſa conſentium, & multitudine quæ circumſtabat unum rectorem jam, & nominatim expoſcente, armatos pro concione jurare in nomen ſuum paſſus eſt.* Sueton. in Claud. c. 10. *Ad firmandum ejus imperium non parum contulit Agrippa Rex Judæorm, autor & Claudio retinendæ dignitatis, & Senatui non offendendi veteranos. Itaque Senatu ſegniore in exequendis conatibus, & milite urbano Prætorianis ſe aggregante, in Claudii nomen juratum eſt.* Cluver. Hiſt. lib. 8. pag. 267. (p) *Hoc exemplo optimates deſerti in magno metu eſſe cæperunt, ac deinceps videntes ſibi adverſationem tutam non eſſe, ſecuti milites ad Claudium tranſierunt. Claudius ſuſcepit in caſtris advenientem ſenatum, & indulgenti honore complexus, egreſſus cum patribus confeſtim obtulit Deo hoſtias, ut mos eſt pro imperio ſupplicari.* Joſeph. de bello Judaic. lib. 2. c. 10. *Vide* eundem Antiqu. Judaic. lib. 19. cap. 3. (q) *Sententiam militum ſecuta patrum conſulta, nec dubitatarum eſt apud provincias.* Tacit. Annal. lib. 12. c. 14.

It appears by all this, that the *Cæſars*, and particularly *Claudius* and *Nero* (inſiſted on by this Author) had other foundation for their Empire beſides the Souldiers promoting, and ſufficient to give them a lawfull calling, and title to their rule, and to excuſe them from Uſurpation, ſuch as hath beene afore deſcribed. And that *Claudius* came in (though croſſe to ſome unripened motions and conſultations of theirs, yet) not againſt any Act or Decree of the Senate; but with their concurrent or ſubſequent approbation.

If it be objected in behalfe of the Uſurpers in our caſe, that they alſo have a conſent of the People, by the Act of the preſuppoſed Houſe of Commons. I anſwer, beſides what hath been ſaid in the cloſe of the firſt Chapter, of the peoples noncommittance of any power to their Repreſentees, to alter any thing in the conſtitution of the Supream Power, or to erect a new one; all that they have to doe, being to manage that proportion which is committed to them: there are moreover two maine things that impeach that Acts validity. 1. That the Lords who are an eminent integrall part of the Kingdome, as

alſo

alſo the far greater part of the elected Commons, are, not onely abſent (ſo that a very ſmall part of the Kingdome, even locally conſidered, is repreſented by them that ſit) but not permitted to come in, and profeſſedly ſhut out (and conſequently the parts of the Kingdome which they repreſent are excluded) at the paſſing of this conſent. 2. That the object and Actors in this conſent, the promoted and Promoters are the ſame Perſons; on whom is the new Supream Power conferred but on themſelves that confer it? You cannot find two Parties in this Act, an Agent and a Patient; ſo that it is ſo far from being a legitimate contract or tranſaction, that it is no politicall Act at all. What reckoning ſhall we make of that conſent which men beſtow on themſelves, in relation to an intereſt of power over others? if ſuch a grant could create a right, few men that could get ſtrength would lack preferment.

Having thus anſwered this Authours maine Argument, I ſhall in the reſt be briefer. 2. He alledgeth, *In this Nation many Perſons have been ſetled in Supream Authority by meer force, without title of Inheritance, not any three immediatly ſucceeding each other have come to the Crowne by true lineall ſucceſſion. Five Kings on a row (the Conquerour being the firſt) had no title at all by proximity of blood,* Henry *the* 7th *by meer power came in, was made King in and by an Army, upon this foundation of Military power he got himſelfe crowned at* Weſtminſter, *and called a Parliament, wherein the Crown was entailed upon him and his Heires. Thoſe that came in thus, the maine body of this Nation did obey, yea doth yeild ſubjection unto their Lawes to this day.* Not to ſtand to examine what he aſſerts in theſe premiſes, 1. The miſtake of this Argument is, that becauſe the Kings by him mentioned came not in by true ſucceſſion, or proximity of blood, they therefore muſt needs be granted to have come in by force alone, or otherwiſe unlawfully; whereas though ſome of them entred by the Sword, others by anticipation, yet they all, whoſe Perſons were and Lawes now are obeyed, had the concurrent or ſubſequent conſent of the Lords and Commons in Parliament, and that without their Houſes being diſmembred, and a force ſet at their dores. 2. The Lawes made by thoſe Princes, were not made by them alone, but by them with the Parliament; and by them, not as ſo entring, but as received by Parliament,

and ſo legally inveſted. 3. The three laſt Princes of this Realme did come in by an indubitate lineall ſucceſſion and proximity of bloud, and the Sonne of the laſt is in being, and claiming by that title. It is obſervable then that this title ſhould be denied and cut off when it was at the cleareſt ſtate. 4. No doubt there have been unjuſtifyable proceedings about the Crowne by ſome of the former Poſſeſſors of it: which have been followed with remarkable puniſhments, and publick calamities ſufficiently pointing out their injuſtice, and forewarning others from making them their examples to practiſe by. What hath been, is no warrant to conſcience that the ſame may be done.

3. *He cites ſome Divines and Caſuiſts as concurrent with him in his opinion.* Their words are too many for me to recite, and the nature of this kinde of Argument exacteth no long Anſwer. In a word therefore, 1. *Azorius* his words allow obedience to Tyrants in regard of title, with reſtriction, and in ſome caſes (ſuch as are granted by me, *Chap.* 3.) But your part is to prove obedience to them, in its full latitude, as you have propounded your *theſis*, without limitation, and concluded (though not validly) by your firſt Argment.

2. *Alſted* diſtinguiſheth of *Tyrannus, titulo, & exercitio*, a Tyrant in regard of title, and in regard of uſe: and his words immediatly before theſe alledged by you, are ſpoken of the latter, and ſo may therefore theſe be underſtood; but the former only is the ſubject of our queſtion. Beſides, within a few lines before he hath this paſſage, *A Tyrant without title, who is an Invader, every private man may and ought to deſtroy, for he is not a Prince but a private Perſon* †. Which will not ſtand with the words quoted by you, if underſtood of a Tyrant in regard of title.

† Alſted. Theol. caſ. c. 17. Reg. 6

3. *Pareus* in your place ſpeaks nothing *pro* or *con*, of obedience to Uſurpers, but is explicating how the Apoſtle is to be taken in thoſe words, *The powers that be, are of God, ordained of God*: and he diſtinguiſhes thus in the words brought in by you. *The power which is of God is one thing, the getting and uſe of the power is another, which is indifferent, ſometimes lawfull, ſometimes unlawfull, ut in dubiis* *: Whither if you had followed him, you ſhould have found him anſwering the doubt about *Nimrods power*, thus: *We muſt diſcern betwixt the power which is ever of God, and betwixt the getting and uſage of the power, which as to men is often*

* *Aliud eſt poteſtas quæ à Deo eſt, aliud acquiſitio, et uſus poteſtatis, quæ indifferens, alias legitima, alias illegitima*, Par. in Rom. 13.

meſt

moſt unjuſt not of God, but of mens luſts, and Satans malice *. By which words it is evident you have but half quoted him, as well as impertinently; and if his Authority may ſway with you, unjuſtly gotten power is not of God, in regard of the perſon or man owning it, and conſequently not to be obeyed by vertue of, *Rom.* 13.

* *Diſcernendum eſt inter poteſtatem quæ ſemper à Deo eſt, & inter acquiſitionem, & uſurpationē quæ quoad homines ſæpe eſt injuſtiſſima non à Deo ſed ab hominū affectibus, & Satanæ malitia.* Ib. in Dub. 3.

4. For the reſt, I have not their Bookes to peruſe, but their ſayings ſet downe by you reach not the caſe at all. This therefore I offer you, produce any one or more Authors, of any account amongſt Ptoteſtants that allow obedience to an unlawfull Power, [in the full latitude of obedience to a Magiſtrate, where there is a pre-engagement of conſcience pleaded by Law, ancient inheritance, and Oaths ſworn to another Power in being, claiming, and endeavouring to recover his right] and I will (by Gods aſſiſtance) returne you a particular Anſwer.

4. His next Reaſon is, *Either that authority which is thus taken by power, muſt be obeyed, or elſe all Authority and Government muſt fall to the ground, and ſo confuſion be admitted.*

Firſt, why muſt this needs follow? 1. May not Uſurpation fall to the ground, how ſtrongly ſoever it be ſet up, and lawfull Government be raiſed up againe? The experience of former times hath obſerved, *That no ill-gotten power can be long lived* †. *Although* (ſaith *Cicero*) *Laws ſhould be plunged over head, and Liberties over-awed by the power of a party, they will ſometime recover again. There is no ſtrength of any power ſo great, that it can continue by keeping men in awe, &c.*

† *Nulla quæſita ſcelere potentia diuturna eſſe poteſt.* Q. Curt. apud Lypſ. Polit. lib. 2. cap. 4. *Quamvis enim demerſæ ſint leges alicujus opibus, quamvis tremefacta libertas, emergunt tamen hæc aliquando——nec vero ulla vis imperii tanta eſt quæ premente metu poſſit eſſe diuturna. Teſtis eſt Phalaris, cujus eſt præter cæteros nobilitata crudelitas,——in quem univerſa Agrigentinorum multitudo impetum fecit: Quid? Macedones nonne Demetrium reliquerunt, univerſique ſe ad Pyrrhum contulerunt? Quid? Lacedemonios injuſto imperantes nonne repente omnes fere ſocii deſeruerunt, ſpectatoreſque ſe otioſos præbuerunt Leuctricæ calamitatis?* Cicero de officiis, lib 2. *Ad tempus fortaſſe inſidioſa & violenta valere poſſunt inventa hominum, ſed abſque juſtitia, & æquitate prævalere non poſſunt diu: quippe vana & infirma ſunt ſtratagemata civitatis quæ columna virtutis non fulciuntur.* Boter. Tractat. lib. 8. cap. 6.

2. If Uſurpation have a party to joyne with it, that party will ſuffice to adminiſter ſuch juſtice as that Authority will afford; if it have no party, it falls to the ground (for it ſubſiſts only perforce) and a clear way is open for the right Govern-

ment to take place: which will be so much the more readily entertained, by how much it hath been interrupted *.

* *Acriores autem morsus sunt intermissæ libertatis, quam retentæ.* Cicero de offic. lib. 2.

2. However things succeed, evill of sinne must not be done, that good of profit may be attained. It must first be proved lawfull to obey, before this Reason can be heard, which will onely plead its expediency, if it be honest. Though *commodum* may be consulted, especially *publicum*, yet we must first be satisfied of the *justum* of it. It was not long ago pleaded, *Fiat justitia, ruat cœlum.* And we were not told thus, when the late wars for Laws and Liberty were first begun: If this be a cogent reason now, it was to have been so then; and we might better have prevented the miseries of a war by hearkning to it, then by refusing it, have, by so dear a means, purchased to our selves an harder condition, and now be bound to bide under it for that very reason.

3. If Government fall, and Confusion come, let them bear the guilt that have wrought these effects: we that detract from obedience shall onely bear the misery of it, which will be lighter to us, it may be hoped, then their greatnesse with the guilt it is gotten, and kept by, will be to them.

Fifthly, he addes, *Otherwise the King being for the Commonwealth, and not the Common-wealth for the King, the end should be destroyed for the meanes, the whole for a part.* First, the King as a Man, yea as a Royall Person, or most noble part of the Common-wealth, is not the prime matter to be layed on the ballance; but if the King may be lookt at as ours, and so as we are in piety, and justice bound to him, to seek his preservation, and yeeld him our obedience; thus considering him, equity and a good conscience are the things stood for as the end; which although they may undergo the notion of means in reference to the Common-wealths good, yet they are desirable, and to be sought absolutely, and for themselves; and the subordinate meanes of the Common-wealths politicall good, must be subordinated or submitted to them, and that end is onely so far, and by such meanes to be pursued, as will consist with these. 2. The Parliament, and the Army also, are no more then a meanes, or a part in relation to the collective Common-wealth. Must not the rights of these therefore be stood for, with the hazard of the whole? If this rule might have guided

guided men in relation to their claimes, ſuch courſes and events as have beene, had beene prevented. 3. Though certaine deſtruction of the end, or whole, muſt not be run upon for the meanes, or part, yet thoſe may be hazarded for the ſaving of theſe from certain deſtruction. As we ſee it ordinarily, men doe adventure their lives and liberties for the preſervation, or recovery of their eſtates by war; and their whole bodies for the regaining of their healths; or one wounded, or feſtered member, by Phyſick or Chyrurgery. 4. We are not active in the deſtroying of the end, or whole (if they be deſtroyed) and we were better both to ſuffer their deſtruction, and ſuffer in it, then ſinfully to concur in deſtroying the meanes, or a part, or in ſubſtituting an unlawfull meanes, or part for the legitimate, that we might preſerve them.

Sixthly, *If a maſters mate had thrown the maſter over-board, and by power would ſuffer no other to guide the ſhip but himſelf, if the mariners will not obey him, commanding aright for the guiding of the ſhip, the ſhip and themſelves muſt needes periſh.* 1. I conceive the mariners may in this caſe obey the Maſters mate for ſelf-preſervation, till they come to ſhore; in like manner that we may obey an Uſurpers power, that is, act according to his command in a thing which is not onely lawfull, but ſimply neceſſary both to be done, and to be done by us, as in the caſe of ſelf-preſervation, by repelling a forraigne Enemy, or common danger of certaine and important conſequence; but ſhall it be inferred from hence, that the Mariners are bound to obey the Mate, or we an Uſurper, in all other things of his owne concernment, or ſeparable from ſelf-preſervation, and every other neceſſary duty? I am bound to ſubmit my ſelfe to the wholeſome, and neceſſary direction of my Paſtor and Phyſitian, in their reſpective ordering, touching my ſoul and body: muſt I ſay therefore, I muſt reſigne up my ſelfe in obedience to them in all other matters? 2. The caſe is not parallel. For, 1. The mariners (without reſpect to their exigence) in that poſture are bound to obey none, the Maſter being dead, and ſo are conſcience-free. But the people (in the caſe) have a Magiſtrate ſurviving, and challenging power over them, to whom they have ſworne Allegiance. 2. The Mariners are ſuppoſed without obedience to the Mate, to be ſure of deſtruction: but by

what hath beene aboveſaid, it cannot be pleaded that the Nation, or the Scruplers at obedience without obeying are ſure to periſh.

* *Summula. Tit. Rempub. Tyrannice, &c.*

Seventhly, You quote a ſaying out of *Cajetan* *, but it ſuites not with the obedience you ſtand for; he in all that Diſcourſe ſpeaks nothing at all for any obedience to Tyrants in reſpect of title, his ſubject being the point of going to ſuch Tyrants for Law and Juſtice †, (of which I have ſpoken, Chap. 3.) and his whole ſpeech being confined to it.

† *Numquid gubernante Tyranno peccant illi qui recurrunt ad ipſam pro juſtitia.*

Eighthly and laſtly, (for I will not follow you in repeating againe what you had ſaid before, and I have anſwered above) *What can the common people doe in this caſe? they cannot judge of titles; but they ſee who doth viſibly and actually exerciſe Authority.* 1. Bruit beaſts doe indeed only ſee him that actually leads or drives them; and therefore they follow without making difference betwixt the owner and a thief; but are men, though but common people, ſo ſtupid? The people you ſpeak of are not altogether ſo brutiſh, they themſelves diſprove you, if you obſerve (as it is eaſie to diſcern) whom they generally abhorre from, and whom they look towards: and who ſo ſhall compare their viſible bent with your preſent book, they whom you make but like *Balaams* dumb Aſſe, yet in this caſe do ſpeak with mans voice, and forbid the madneſſe, &c. 2. If they be ſo incapable of diſcerning of Titles, wherefore hath not only the late King, but the Parliament publiſhed ſo many Declarations and Appeales to the people, wherein they plead for the juſtneſſe of their Title, to what they ſtood and fought for? yea, why hath the Parliament drawn the people into the Proteſtation, the ſecond Vow and Oath, and the Solemn League and Covenant, all which concern the ſeverall claims and rights of King and Parliament? either they are thereby ſuppoſed to be ſomewhat competent to judge of thoſe Titles; or it was both vainly and irreligiouſly done to lead them into ſuch ſacred bonds, which we may neither take, nor cauſe others to take, but in judgement. *Jer.* 4. 2.

3. Although they, yea, the primeſt States-men, may finde it difficult enough to judge of Titles in ſome nice and intricate caſes that may happen, yet the preſent caſe is not ſo deep or doubtfull, the right of Title in this queſtion is written with clear

clear and capitall letters, in Laws, Oathes, and actions open before all. Yea, this Authour in the Title and current of his Book, (as doth Master *Aſcam* in his) plainly enough grants where the right of title is.

This Author in the latter end of a ſecond Edition of his book, *viz:* beginning at *pag.* 15. addeth ſome things *upon the queſtion of active obedience, and acting under this preſent power, and government.* Although this Edition come in late, and in ſome paſſages is but an amplification in tearms, not in matter, of what he had ſaid before; yet I ſhall take a brief notice (whether ſufficient let the Reader judge) of the things in it, that may ſeeme materiall.

Firſt, he premiſeth, *That the preſent Power is in poſſeſſion of the Whole Land, and no viſible force to oppoſe; and ſo it is not like that between* David *and* Abſolom, *when* David *had an Army in view.* Conſult the text, and you ſhall finde the caſe exactly parallel. 1. *The preſent Power is in poſſeſſion of the whole Land*; you ſay, you meane of this ſide the Sea, not of *Ireland* alſo; ſutable hereunto *Abſolom* was poſſeſt of all the Land unto *Jordan*, yea, and he went over *Jordan*, and pitched in *Gilead*, and all the people throughout all the Tribes of *Iſrael* had anointed him King over them: on the other hand *David* and his men *fled out of Jeruſalem, and out of the Land, beyond Jordan, and ſtayed not till he came to Mahanaim by the ford Jabock.* 2 *Sam.*15.14. &c. 17. 22,24,25, 26.& 19.9,10.

2. You adde, *And no viſible Force to oppoſe, whereas* David *had an Army in view.* *David* had no Army in view within that land before ſpoken of: all that he had was at *Mahanaim.* And though there be no viſible Force to oppoſe in *England*, yet there is ſaid to be a conſiderable Force in *Ireland*, and it may appeare by the Preparations ſent thither. Beſides, there is one thing indeed wherein *Davids* condition, and his whom the preſent Power excludeth, differ, but not to the advantage of this Authours reaſon, which is, that *David* had no other Kingdome to owne and declare for him, which yet he hath.

Secondly, you come with Arguments: 1. *Obedience to ſuch a Power in good things is lawfull: But acting for juſtice and order is a good thing, Ergo:* I have before diſtinguiſht betwixt morall acts which are for private men to doe, though there were no Authority;

rity; and politicall acts, which flow from magistracy. The latter sort of acts may not be done in obedience to an usurped Power, for the Reasons given before. The execution of justice is a good act in it selfe, but it is not good to be done by every man, nor upon every mans command; but is onely good in him that is lawfully authorized to it.

2. You say, what reason is it, that those that will not act because they hold it unlawfull, should expect that others should doe an unlawfull act to benefit them? To this let *Cajetan* (an Authou- cited by you, and that in the place you cited from him) answer; *They are excused from the sinne of inducing the Tyrant to an act unlawfull for him, that aske justice of him, because they doe not petition him for the unlawfull act, but for the justice of that unlawfull act: it is honestly done to perswade him to use his power lesse sinfully: This Petition is in effect thus much. Seeing thou wilt hold and exercise this power, use it justly, use it honestly, use it religiously; use it to the benefit of the publike, and of private men, as it would become the Power. It is plain, such Petitioners intend not to aske the Tyrant to usurp the act of Judicature, because they had rather he would give it over: but seeing he doth usurp dominion and judgment, they intend he should use justly and honestly his usurped Power and Judgment: and that which they intend, that they petition for: so that they neither intend nor petition for an usurped act, but an holy quality in the exercising of that usurped Act* *.

* *Excusantur à peccato inducēdi Tyrannum ad actum, et opus sibi illicitum, petentes ab illo justitiam: quia non petunt actum illicitum, sed justitiam illius actus illiciti. Sanctè sua detur, quod minus male utatur dominio illo; sci. si vis seu ex quovis detinere, & exercere hoc dominium, utere illo justè, utere honestè, utere piè, utere ad utilitatem publicam, & privatorum prout deceret dominium. Constat namque quod non intendunt ipsi petere, ut tyrannus utatur tyrannide, ut usurpet actum Judicii: quoniam mallent ut cederet tyrannidi, & judicio; sed ex quo usurpat sibi dominium ac judicium, intendunt ut justè, ut piè utatur usurpato dominio, & usurpato judicio, & quod intendunt hoc petunt, ita quod nec intendunt, nec petunt actum usurpatum, sed qualitatem sanctam in actu usurpato exercendo.* Cajetan. Summul. Tit. Remp. Tyrannice, &c.

Again, *Why should others give right to them, that will not give right to others?* A fallacious and frivolous interrogation in the true meaning of it. In commutative justice (wherein the rule of doing as we would be done unto onely holds, with reference to Persons that are to doe it) they who refuse magistraticall acts, are ready to render every man right to him. But this Question would have a private man (such as they are) to have no distributive justice or right by the Magistrate done him, even when the Magistrate is lawfull, because he cannot,

and

and therefore will not *viciſſim* adminiſter diſtributive juſtice to the Magiſtrate. Every common Judgment knowes that a private ſubject is to receive judiciall right, but not to give it.

3. *It is cleared before in this Diſcourſe, that thoſe who have gotten to be Powers (though by force) ought to give juſtice to thoſe whoſe Government they have undertaken, but (ſuppoſing them to be but one, or a few) this they cannot doe without ſubordinate Agents; to diſallow acting under them then, is to ſay in effect they ſhall not give juſtice.* 1. Suppoſe them but one, or a few, & they cannot get or keep the place by force. Suppoſe them many, & they have no need (in that reſpect) of others to be their under-agents. 2. If this that you ſay be cleared, or ſo much as ſaid before, I have forgotten it, though I have read all that is before, and reſt confident there is no ſuch thing. When you ſhew where this is ſaid and cleared, I ſhall then find by what reaſons it is maintained, and ſo give you an Anſwer thereunto. In the mean time, that which is here but barely affirmed, it is ſufficient for me to deny. If you could clear this, the whole queſtion were decided. If he ought to give Juſtice, he hath a ſpeciall warrant, and calling to it; and how Force can give ſuch a calling, you have not yet aſſayed to clear: the contrary I have brought many reaſons for, (Chap. 2.) and am therefore before hand with you in this point. It will be confeſt, that if a man will take upon him to adminiſter judgement, he were better, or it is a leſſe evill in him to doe right, then wrong therein: but of two evils of ſin, neither is to be admitted.

4. *This Doctrine of not acting is the very doctrine of Levilling. For when no man may act, every man may take freely from his neighbour, &c.* 1. Levelling may be the conſequent of non-acting, but it cannot be the conſequent of it; it is the conſequence of their doings, who take away the ſetled Magiſtracy. 2. Levelling in point of goods, you like not, it ſeems: but why do you not as well abhor from it in point of Governm^t? that's but Levelling the private, this is levelling the publick Intereſt; that Levelling can never come in, till this Levelling go before, & lead the way, but who are Levellers this latter, and (as you ſee) worſe way, but they that teach, or practiſe the deſerting of the lawfull, eſtabliſht Magiſtrate, and the competency, yea duty, of any that have force to play the Magiſtrate. *Hence ariſeth that which they call an interpretative conſent of the people: becauſe it is ſuppoſed every rationall man doth conſent that there ſhould be order, property, and right given under a Tyrant, ra-*

ther then all to be under confuſion, &c. 1. Every rationall man conſents indeed that there ſhould be order, property and right; and his being under a Tyrant (by experience of the want) confirmes his aſſent to the neceſſity thereof: but that ſuch things ſhould be maintained Magiſtratically by a Tyrant (in regard of Title) you ſee (if all that are your Antagoniſts in this queſtion be not ſtark Irrationals) ſome rationall men deny. And in this they appear rationall, in that they would heare ſome reaſon for it, before they conſent to it. Which rather then you will ſtrain your ſelf to give (for truly it is hard to do) you chooſe to ſuppoſe them that will not conſent without it, to be out of the number of rationall men. 2. This ſhift of an interpretative conſent of the People, that the Uſurper ſhall adminiſter judgement, will not ſerve you. For, 1. It will be difficult to finde out, and agree, when ſuch an interpretative conſent is given by the people. 2. What thing is it? as neer as I can conjecture it is poſſibly, 1. Either that theſe men ſhall be the *power*, or *Magiſtrate*; and then, 1. Either the *people* had power to give this conſent, and this makes theſe men no Uſurpers, but lawfull Magiſtrates, and ſo puts them out of the compaſſe of this queſtion. 2. Or they had no power, being preingaged, and then this conſent is void, and null, becauſe it prejudicates anothers right. 2. Or it is, that theſe men, though they have no conſent of theirs to be Magiſtrates, but come in, and hold againſt their wills, and by their owne meer force, and againſt anothers right, yet they ſhall for preſent execute judgment, becauſe it cannot be had otherwaies. This conſent (ſuppoſe it really paſt by the people) cannot bottome their acting, or others under them. For it is in the eſſence of it an unlawfull act, and therefore of no force. It is of the ſame validity as was that of the people which joyned with *Korah* and his company, who gave conſent, that though *Korah* and the reſt were no Prieſts, yet they ſhould offer incenſe; or as that would be, if the people of a Congregation now, that can procure no lawfull Miniſter, ſhould take a private man, and ſay, this man is no Miniſter, yet he ſhall, in this defect of one, preach and adminiſter the Sacraments to us. Such conſents are contradictions to the eſtabliſht ordinance of God, appointiug that no ſtranger to thoſe Functions ſhall execute thoſe acts. In like ſort it is in this point of Magiſtracy.

5. *How could* Ezra *and* Nehemiah *juſtifie their acting under the Perſian Monarch, who had no right to the Crown of* Judah *either by blood*

blood or just conqueſt. 1. That the Perſian Monarch had not that right, you ſay, but prove it not; but if juſt conqueſt give a title, *Cyrus* the firſt Perſian King juſtly warred againſt *Balſhazer* the laſt *Chalcedon* Monarch as Hiſtorians * ſay, and therefore juſtly conquered him and his Empire; under which the Jews were then ſubjected, and that by ſpeciall warrant from God, *Jer.* 27.12. to 16.& 29.1,to 8 & 21.8 9.& 38,17,to 21. 2. But *Cyrus* had both an indubitable title to that Empire, and an unqueſtionable Commiſſion for what he did in reference to the Jewes releaſement from captivity, and reſtauration of their Temple, Religion, and Civill State; and that from God himſelf, by immediate deſignation. Hear what he himſelf ſaith in his Proclamation, unto which he was ſtirred up in ſpirit by the Lord, *Thus ſaith Cyrus King of Perſia, all the kingdomes of the earth, hath the Lord God of heaven given me, and he hath charged me to build him an houſe in Jeruſalem* W^ch *is in Judah,* 2 *Chr.*36.22,23.*Ezr.*1.1,2. And compare this with what the Lord ſaith not only of, but to this *Cyrus*, *Iſa.*44. 28. & 45. 1,2,3,4,5,13. and a clear calling or title to the Empire of the world, and to the acting of what he did in reference to *Judea*, will appear to be in him. It is conceived that *Cyrus* had certaine knowledge of this Commiſſion, recorded and given to him by name,in that Propheſie of *Iſaiah*,and that by means of *Daniel* the Prophet †; and that which is therein written he underſtood to be his charge given of God,which he mentioneth in the aforeſaid Proclamation *. Adde to this that Mr *Diodati* interpreteth that ſpeech of God to *Cyrus*, *viz: I girded thee*, Iſa. 45.5. *of the Lords making him King, and giving him power and authority*, v. 1. And that of v.13. *I have raiſed him up in righteouſneſſe*, he underſtands thus, that is, *by a firme decree of my juſtice, and by a juſt calling.* Now if *Cyrus* the firſt of the Perſians had a valid title, what can controule his Succeſſours right in *Judea*?

2. If there had been no right in the Perſian King over *Judea*, yet the acting of *Ezra* and *Nehemiah*, could be no preſident or warrant for a now acting under a uſurped Power in the caſe we have in hand. 1. Conſider the ſpeciall qualification, and call of

* *Craſus fiducia potentiæ infert bellum adverſus Tyrannũ Babylonicum*, Chron. Carion. lib. 2. pag. 69. *Balſhaſar cõſpicatus Cyri, & Medorum potentiam coaleſcere, Craſum ad infringendas eorũ vires incitat.* Cluverii Hiſt. l.6.p.64.

† *Agnovit hoc ipſe Cyrus, & publico eſt edicto ad hunc modum teſtatus: Hæc dicit Rex Perſarum, &c. primo Eſdra.* Muſcul. in Iſa. 45. 1. *Cyrus lecto vaticinio Iſaiæ de ſe nominatim edito*, Iſa. 45. *Propterea edictũ quo Judæis in Babylonia captivis, reditum in patriam, & facultatem, inſtaurandi templi conceſſit.* Chytræi Chronol. in l.l. Herodot. p.147. *Arbitror autem & tunc cum rexit Perſiam Daniel, præſos in Suſis fuiſſe ejus auditorum Cyrum adoleſcentem, & ab eo dedicisſe veram de Deo, & de Meſſia doctrinam, & prædictiones Iſaiæ in quo nomen Cyri expreſſe poſitum eſt.* Chron. Carion. l. 2. p. 69. *See Annotations of Divines on 2 Chr. 36.22.& Ezra 2.2. Diodat. ibid. Muſculus in Iſa. 45.1.13.

Ezra 7. 1, 2. theſe two perſons. 1. For *Ezra*, he was a Scribe, and a Prieſt, and ſome think one of the higheſt, to wit, that he was that *Joſedech*, who was the father of *Joſhua* the high Prieſt (this is *Jeromes* opinion †) and ſo might be authorized by vertue of that office, to tranſact all that he is ſaid to have done in his Book. 2. He is ſaid by ſome of the Antients to be a Prophet, *Neither can he be denied ſo to be*, (ſaith a late learned and ſolid Divine *) *in that he was a Pen-man of Scripture.* 3. And beſides theſe functions, he ſeemes to have had a ſpeciall call of God in his undertaking what he did: it is ſaid, *The hand of the Lord his God was upon him*, when he firſt enterprized his worke, *Ezra* 7. 6. which phraſe is often reiterated upon the ſeverall paſſages of his imployment, Chap. 7. 9, 28. &c.

† Ludov: Vives in Auguſt. de Civit. Dei, l. 18. c. 36.

* Mr *Roberts* his *Clavis Bibliorũ*, on Ezra.

2. *Nehemiah* was the Governour, *Neh.* 8. 9. 10. 1. 12. 26. it is not any where ſaid (that I finde) that he was ſent with that power by the Perſian King, but it is more probable he was choſen to that office by the people of *Judah*, both becauſe he was one that was very zealous for the intereſt and publick advantage of that Nation, and by reaſon he came thither ſome years after *Ezra*, & acted in conjunction with him. *Neh.* 8. 9. Now in *Artaxerxes* letter to *Ezra*, at his firſt going up from *Babylon* to *Jeruſalem*, it is cõmitted to *Ezra*'s truſt, *to ſet Magiſtrates & Judges up among the people, Ezr.* 7. 25. with this proviſo, *After the wiſdom of thy God that is in thine hand*; by which is meant *the Law of God.* But by the Law of God the people of *Iſrael* were to create their owne Magiſtrates & Kings, *Deut.* 16. 18. 17. 14, 15. And beſides this Governourſhip it ſeems he had (in like manner to *Ezra*) a divine inſtigation & vocation to his worke. It is ſaid, *That God put that in his heart to do at Jeruſalem*; which he went about, & when he was come thither, *he told them of the hand of his God which was good upon him*: upon which report, *they ſaid, Let us riſe up and build.*

Ezra 7. 7. compared with Neh. 1. 1.

Neh. 2. 12. 18.

2. Let it be more narrowly obſerved, what *Ezra*'s Commiſſion was from *Artaxerxes*, and it will be found; 1. That he himſelfe was not authorized to fine, impriſon, and put to death, as this Author affirmeth; let the text be better marked, Chap. 7. 26. 2. In the charge of ſetting up Magiſtrates and Judges, it cannot be thought he was intended to doe it; otherwiſe then as a private man, or Prieſt might be inſtructed to do it, *viz:* with the peoples concurrence; For he (as I even now obſerved) was to manage that buſineſs *after the wiſdom of his God that was in his hand*, to wit,

according

according to divine Law, which appointeth the people to doe it.

3. That in all this Commission he and the rest that went up with him were authorized to doe no more, and in no other manner then the law of God required, *Ezra* 7. 14, 18. 23. 25. and consequently they were warranted before by it, to doe all that they did, and this of *Artaxerxes* was but an encouragement, & strengthening of them to it. 4. Whatsoever he acted, Chap. 10. in the matter of the Oath, Proclamation and reformation in the point of marriage. Besides that there was nothing done by him in it, that was solely appertaining to the Magistrates office; all that he transacted was by the motion, appointment, and consent of the Congregation, the Princes & the Elders, *Ezra* 10. 1. 3. 7. 8. &c. *v.* 2. 19. yea even by the free assent of the parties. 3. As for all the authoritative actings of *Nehemiah*, which he alledgeth they must be attributed to his place of Governour, and whence that is to be derived, I have spoken before.

Lastly, you bring in the judgment of two or three Popish Divines: which I shall altogether passe over, for that their reasons taken from the *tacite, or interpretative consent of the people, the confusion that comes in by having no government, and the expedience of chusing the lesser of two evils*; I have answered before. Onely one thing brought in, by the last of them being not before answered, I shall here reply to, which is as followeth: *It is manifest that the Romans by tyranny did possesse* Judæa, *in that very time wherein* Christ *and* John Baptist *did preach: yet* Christ, Mat. 22. *did teach, that tribute was to be given to* Cæsar, *yea himself did give it*: John Baptist, Luke 3. *commanded the Souldiers this onely, that they should doe violence to no man, and be content with their wages: Wherein he did rather perswade them to continue in the service of* Cæsar.

1. To that of Christ, *Mat.* 22. wherein the main of this allegation lyeth, which is stuck at by many, I have two things to say:

First, his Answer to the Question about the lawfulnesse of giving tribute to *Cæsar* is to be weighed, and therein it may be questioned, whether he positively taught that tribute was to be rendred to *Cæsar*; His words are, *Render therefore unto Cæsar the things which are Cæsars: and unto God the things that are Gods.* Here Christ delivers a precept of giving to God and *Cæsar* each their right in the generall, without asserting or explaining what the right of either is in particular, or making application to the case, then before him; he seemes to leave them that moved the question

queſtion to doe that. His words determine not the point either way expreſly; all that can be inferred from the plain current of them, is a conditionall rule equally favouring the affirmative and negative; if it be *Cæſars* due, render it; if not &c. Such a waving anſwer will not appear unbeſeeming him, if it be conſidered who they were that propounded the *Quære*, to wit, the Phariſees, with the chief Prieſts and Scribes; and with what intention it was put forth by them, *viz:* to entangle him, and ſo to betray him to the Governour for his deſtruction: See *v.*15. & *Luke* 20. 19,20. and how well this was known to him, *v.* 18. The caſe was put not ſo much of conſcience, as of deſigne; and there was this by-formed or cornuted trap in it, *If he ſhould diſallow that tribute paying, they would accuſe and proſecute againſt him, before the Roman Governour as an enemy to* Cæſar; *if he ſhould hold with it, they would traduce him to the people, as one that conſented to the Romans tyranny and ſacriledge* †: Upon this ground he might prudently (and juſtly enough) give an Anſwer not to ſatisfie the doubt, but to ſilence the Propounders. And unto this interpretation M. *Calvin* inclineth *, *He ſo tempered* (ſaith he) *his anſwer by his admirable wiſdome, that he might render himſelf obnoxious to neither party.* If he did indeed ſo expreſly command tribute paying to *Cæſar* in theſe words, which were publickly & before all uttered in the Temple, with what face or colour could they within two or three dayes after accuſe him to *Pilate*, as one whom they found perverting the Nation, and forbidding to give tribute to *Cæſar*, *Luke* 23. 2. This accuſation would import to us, his Anſwer under queſtion to have been ſo poſitive and punctuall for tribute-paying; for though no doubt theſe men accuſed him maliciouſly, and would not ſtick to doe it falſly, yet they would have ſome hint or appearance of occaſion for it, as in other their accuſations they by ſtraining and miſconſtruction had.

† Marlor. Muſc. Dieterius Janſenius, Diodat.

* *Ita temperavit reſponſum admirabili ſua ſapientia, ut neutri parti ſe redderet obnoxiū.* Calv. apud Marlorat. in locum.

2. But unto thoſe who will not believe, but that in the ſaid words he teacheth paying tribute to *Cæſar*; I further anſwer, Let the notion under which he is ſuppoſed to enjoyne it be obſerved, and the ſo underſtanding him will help not to ſtrengthen, but to anſwer the Argument; He commands them to render that which he ſpeaks of to *Cæſar* as a due or right: * *Render unto Cæſar the things which are Cæſars*; now if tribute or any thing elſe belonging to a Magiſtrate were *Cæſars* due and right, then was *Cæſar* no Uſurper, but a lawfull Magiſtrate, for tribute of due can onely belong

* Render as a debt, *Rom.*13.7. Annotat. of Divines.

belong to a rightfull Soveraigne. A debt on the Subjects part of tribute must needs infer a right to it in the Magistrate, to whom it is payable; and a right in him to it must needs inferre a right in him to all allegiance *. How it came about that the Romanes were invested with the Soveraignty of *Judæa*, is not necessary for me to cleare, when there is (taking the words in this latter sense) so plaine a proofe that it was so in these words of our Saviour.

But for the Readers sake, I will observe thus much out of History to him. About 152 years before the birth of our Saviour, the government of *Judæa* came to be in the Maccabees who were Priests. At that time *Judas Maccabeus* being in fear of that grand Enemy of the Jewes, *Antiochus* sought aide of, and entred into a League of friendship with the Romanes; † which continued till about 60 years before the birth of Christ, when *Hircanus* & *Aristobulus*, the Sons of *Alexander* falling into contention for the Kingdome; and *Aristobulus* the more warlike man having possest himselfe of it, and usurped it from *Hircanus* the elder Brother, in whom the right then was, the said *Hircanus* fled to the Romans for remedy, and by the mediation of *Antipater*, he procured *Pompey* (then nigh that Countrey with an Army) to undertake his aid; who thereupon besieged *Jerusalem: Hircanus* his party within the City immediately delivered it up to him, and *Aristobulus* friends withdrew into that part where the Temple stood, which was by *Pompey* taken by storme; and by this meanes that City came into the hands of the Romanes, and *Hircanus* was restored to the high Priesthood and Kingdome of *Judæa*. Who, with the party that cleaved to him against *Aristobulus*, having gained the upperhand of those that usurped over them, they were faine by the same means to keep it, by which they got it, to wit, by the Roman power and protection *. Whence it may appeare, that the Jewes under *Hircanus*, were not brought under the Roman subjection by meer force, but (through the necessity of their affaires, whereinto they were driven by the Factions within themselves) from their owne consent and choice. And to this dedition of the Jewes to the Romans, agreeth that saying of *Josephus* concerning *Pompey*, when he had taken *Jerusalem* †: *He did as becometh a good Generall, rather by good turns, than by terror conciliate the people to himselfe.* And another passage in the same Author plainly proves it. He telleth that *Antipater* replying to the accusations of *Antigonus*

* *Non dicit date ergo, cum illi interrogassent, liceretur dare se dicit reddite tanquã ea quæ ejus sunt, quæque ab eo accepistis. Reddite, inquit, Cæsari, sed quæ Cæsaris sunt, quoque tanquam sua jure postulare potest.* Jansen. com. in conc. cap. 116.

† Josep. de bel. Judaic. l. 1. c. 12. Chro. Carion. l. 2. p. 138.

* Josep. de bel. Judaic. l. 1. c. 4, 5, 6. Antiq. Jud. l. 14. c. 1, 2. &c. Chron. Carion l. 2. p. 148. Stella in loc. 20. 22.

† *Per quæ ficus bonũ imperatorẽ decuit bene volentia potius quã timore plebem conciliavit.* De bello Judaic. li. 1. ca. 5.

Non propter inopiam desiderare facultates sed ut in eos qui dedissent Judæorum seditiones accederet. De bello Judaic. & l. 1. c. 8.

tigonus the Sonne of the aforesaid *Aristobulus*, layed in by him against *Hircanus*, and himself before *Cæsar*, complaineth of *Antigonus*, *That he sought not relief of* Cæsar, *because he was poore, but that he might kindle Jewish seditions against those who had made a dedition of themselves.* And thus continueed this relation, and subordination of the Jews unto the Romans, to our Saviours time, and that still with a faction, part of them adhering to the Cæsarian Authority, and part reluctating; which division among themselves occasioned the question to be really controverted amongst them, which is here insidiously propounded to Christ about the lawfulnesse of giving tribute to *Cæsar*; the party that was for the negative were the Pharisees faction, whose reputing and speaking of the Romanes as Usurpers, might occasion that vulgar opinion of their power which we meet with in some Authors, *viz.* that they were indeed in our Saviours time Tyrants without title over *Judea*; Although it is evident (by what is here said) that they came into their Authority by the consent of the juster, and better authorized party, and at this time had one part agreeing to them.

Nam divisi erant Judæi inter se, ita ut pars dandum censeret tributü Cæsari, pars negaret qui negabant faciebant cum Pharisæis, qui sentiebant populum Dei debere liberum esse, nec tributa pendere impiæ potestati Cæsaris; quidandum sentiebant faciebant cum Herode, qui Cæsaris partes tuebatur atque ideo Herodiani dicebantur. Muscul. in loc. vid. etiam Jans. in comment in concord. cap. 116.

2. That which is further alledged, *viz. That our Saviour himself payed Cæsar tribute, and that John Baptist perswaded the souldiers to continue in his service*, is taken off sufficiently by what is already said; for if *Cæsar* was a lawfull Prince to the Jewes, these things make nothing for the Arguer.

I have thus gone through, and endeavoured to give a satisfactory Answer to every argument, which by this Author, or any other I have observed to be urged for the obedience which in this Treatise I impugne. If I had been apprehensive of, or could have extracted any materiall argumentative grounds out of Master *Ashcams* Discourse, for his high assertions mentioned in my second Chapter, I had here taken notice of them. If he hath any brief and slender hints of Reasons, I suppose them to be Answered in what I have already said.

FINIS.